

U.S. Nuclear Regulatory Commission and
National Treasury Employees Union

COLLECTIVE
BARGAINING
AGREEMENT

November 9, 2015



**Collective Bargaining Agreement
Between
U.S. Nuclear Regulatory Commission
and
National Treasury Employees Union**

**Effective
November 9, 2015**

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PREAMBLE

The Nuclear Regulatory Commission, hereinafter referred to as the “EMPLOYER” and the National Treasury Employees Union hereinafter referred to as the “UNION” or “NTEU,” and Chapter 208, recognize that the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlement of disputes between employees and employers involving conditions of employment; and

The Employer and the Union recognize that the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the government; and

The Employer and the Union recognize every intention to deal with each other in good faith, honesty, and mutual respect. This cooperation promotes both the efficiency of the Employer’s operation and the well-being of its employees; and

The Employer and the Union agree that the dignity of employees will be respected in the implementation and application of this Agreement as well as related personnel policies and practices; and

The Employer and the Union hereby further agree as follows:

Article 1

Recognition and Coverage

1.1 General Provisions

This Collective Bargaining Agreement has been negotiated and entered into in accordance with the provisions of Chapter 71 of the Civil Service Reform Act of 1978, 5 U.S.C., Section 7101 et seq., by and between the United States Nuclear Regulatory Commission (NRC) and the National Treasury Employees Union (Union) hereinafter collectively referred to as the parties.

1.2 Unit Composition

Since November 17, 1978, the NRC has recognized the Union as the exclusive representative of the employees in the bargaining unit in the NRC Headquarters offices in the Washington, DC metropolitan area. The Union became the exclusive representative of employees in the Regional Offices of the NRC on January 21, 1979, when they were included in the bargaining unit by certification of that date by the Federal Labor Relations Authority.

- 1.2.1 Included in the bargaining unit are all GG professional employees and nonprofessional employees and WG employees of the NRC except those who are excluded as set forth in 1.2.2 below.
- 1.2.2 Excluded from the bargaining unit are:
 - 1.2.2.1 all supervisors as defined in 5 U.S.C. 7103(11); (Stewards who are temporarily assigned to supervisory positions for one full pay period or less may not perform representational duties within the division to which they are assigned as a supervisor during the period of such assignment, unless a specific exception has been granted by management. Union stewards who are temporarily assigned to supervisory positions for more than one full pay period may not perform any representation duties during the period of such assignment. The Union steward may request that the supervisory duties be assigned to another employee due to pending representational matters. If such a request is denied, then all meetings scheduled regarding pending representational matters assigned to that representative will be rescheduled and relevant deadlines extended for a reasonable period of time as determined by the parties.)
 - 1.2.2.2 all management officials as defined in 5 U.S.C. 7103(11);
 - 1.2.2.3 all employees engaged in Federal Personnel work in other than a purely clerical capacity;
 - 1.2.2.4 all guards;
 - 1.2.2.5 all confidential employees as defined in 5 U.S.C. 7103(13);

- 1.2.2.6 all temporary employees on appointments not to exceed 90 calendar days and with no reasonable expectancy of continuous employment;
- 1.2.2.7 all employees engaged in administering the provisions of 5 U.S.C., Chapter 71.
- 1.2.2.8 all employees engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; and
- 1.2.2.9 all employees primarily engaged in investigation or audit functions relating to the work of individuals employed by the NRC whose duties directly affect the internal security of the NRC but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

1.3 Scope

The parties agree that the provisions of this Agreement shall govern the relations of the employees and the Union with the NRC with respect to conditions of employment and other matters covered by this Agreement.

1.4 Employee Definition

Unless otherwise stated, the words "employee" or "employees," as used in this Agreement, mean an employee or employees of NRC who are included in the bargaining unit. This Agreement does not apply to employees who are excluded from the bargaining unit or to positions which are outside the bargaining unit.

1.5 List of Bargaining Unit Employees

The Agency shall maintain a list of employees and positions included in the bargaining unit. The Agency will send the list (in an agreed-upon format) to NTEU on a quarterly basis. This listing will contain the employee's full name, Service Computation Date (SCD), title, series, grade, organization, date of last promotion, date of last increase and salary. The NRC will advise NTEU in writing of any employees added to, or removed from, the bargaining unit within thirty (30) days of such changes. Either party to the Agreement may challenge the inclusion or exclusion of positions or employees from the bargaining unit by petitioning to the Federal Labor Relations Authority pursuant to regulations.

1.6 Agency Rules, Policies and Regulations

To the extent that the Agency's rules, policies and regulations are in conflict with the terms of this Agreement, the terms of this Agreement will govern.

1.7 Existing Agreements

All current supplemental agreements between the parties (commonly referred to as a MOU) shall continue in effect unless specifically terminated by agreement or otherwise clearly superseded by this Agreement.

Article 2

Employee Rights and Responsibilities

2.1 Employee Rights

Each employee shall have the right to form, join or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided in 5 U.S.C., Chapter 71, such right includes the right:

- 2.1.1 To act for a labor organization in the capacity of a representative and the right in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
- 2.1.2 To engage in collective bargaining with respect to conditions of employment, through representatives chosen by employees under said Chapter 71.

2.2 NRC Values

The parties are mutually committed to the NRC Values of Integrity, Service, Openness, Commitment, Cooperation, Excellence, and Respect. Relationships in the workplace should be conducted in a civil, businesslike manner.

2.3 Representation

2.3.1 Self-Representation

Each employee shall have the right to self-representation in a grievance or to representation by the Union. However, when an employee chooses to present a grievance on his/her own behalf, the Union shall have the right to be present during the grievance proceeding.

2.3.2 EEO Representation

Consistent with law and regulation, employees will be permitted to have a representative during EEO Counseling.

2.4 Weingarten Rights

The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of NRC in connection with an investigation if:

- 2.4.1 The employee reasonably believes that the examination may result in disciplinary action against the employee; and
- 2.4.2 The employee requests representation.

2.5 Office of the Inspector General (OIG) Investigations

At the time the employee is initially contacted by OIG to schedule an interview, the employee is normally provided with the following information:

- 2.5.1 The general subject of the interview or allegation;
- 2.5.2 That he or she is the subject of the investigations or whether the employee is being interviewed as a witness;
- 2.5.3 That if the employee reasonably believes that the interview may result in disciplinary action, the employee is entitled to representation during the interview by a person designated by NTEU;
- 2.5.4 For non-criminal investigations, the interview is normally scheduled to allow the employee an opportunity to seek the counsel of an NTEU representative. Such counseling shall not, as determined by the OIG, unduly delay the interview;
- 2.5.5 For criminal investigations, the interview is normally scheduled to allow the employee an opportunity to seek legal counsel from their own attorney. Such counseling shall not, as determined by the OIG, unduly delay the interview.

2.6 Office of the Inspector General (OIG) Interview Warnings

Warnings given by the Office of the Inspector General, as appropriate include:

- 2.6.1 Miranda: Given when an individual is being interviewed concerning his or her own potentially criminal misconduct and is taken into custody or deprived of freedom in a significant way. This warning advises that the individual is entitled to remain silent or otherwise not incriminate himself or herself and to the assistance of an attorney.
- 2.6.2 Garrity: Informs Federal employees who are subjects of investigations, that although they would normally be expected to answer questions regarding their official duties, refusal to answer on the ground that the answers may tend to incriminate them will not subject them to disciplinary action.
- 2.6.3 Kalkines: Advises that the possibility of criminal prosecution has been removed, usually by a declination to prosecute by the Department of Justice, and that the employee is required to answer questions relating to the performance of their official duties or be subject to disciplinary action.

2.7 Grievance Participation

Employees, designated representatives and employee witnesses will be assured freedom from restraint, interference, coercion, discrimination, intimidation or reprisal arising out of their initiation or participation in the resolution of a grievance.

2.8 Employee Compliance

Employees recognize their responsibility to promptly comply with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule or regulation, he/she should state his/her beliefs to his/her supervisor. If the instruction remains unchanged, he/she should state concisely his/her beliefs promptly and orally to the next higher level of management, if that higher level of management is immediately available. If the order or instruction is confirmed by that higher level of management, or if the next higher level of management is not immediately available, then the order of instruction will be carried out promptly by the employee.

2.9 Reaction to Supervisory Instruction

The employee may document his/her belief that the order or instruction violated one or more laws, rules or regulations. If an employee refuses to carry out an order or instruction promptly and the NRC takes an adverse personnel action against the employee as a result of such refusal, that employee may assert as a defense that he/she believed the order or instruction to be illegal.

2.10 Open Door Policy, Non-concurrence Process, and Differing Professional Opinions Program

All NRC employees are expected to discuss their views and concerns with their immediate supervisors on a regular, ongoing basis, including during the preparation and review of agency documents. If informal discussions do not resolve concerns, employees have various mechanisms for expressing and having their concerns and differing views heard and considered by management, including the Open Door Policy described in Management Directive MD 10.160, the Differing Professional Opinions (DPO) Program described in MD 10.159, and the NRC Non-Concurrence Process described in MD 10.158. When an employee disagrees with all or part of a document for which he/she would be in the concurrence chain, (including situations where the employee would be the originator of the document), the employee shall not be required to concur on any approval document. In addition, the employee shall be allowed to document such differences to higher level management. However, an employee will be required to comply with supervisory direction regarding the assignment of work, including assignments to continue working on the matter or issue that was the subject of the non-concurrence or differing view. No employee will be subject to retaliation for participating in the Open Door Program, the Non-concurrence Process or the Differing Professional Opinions Program.

Article 3

Management Rights and Responsibilities

3.1 Management Rights

Nothing in this Agreement shall affect the authority of the NRC:

- 3.1.1 To determine the mission, budget, organization, number of employees, and internal security practices of the NRC.
- 3.1.2 In accordance with applicable laws-
 - 3.1.2.1 to hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce-in-grade or pay, or take other disciplinary action against such employees;
 - 3.1.2.2 to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;
 - 3.1.2.3 with respect to filling positions, to make selections for appointments from-
 - 3.1.2.3.1 among properly ranked and certified candidates for promotion; or
 - 3.1.2.3.2 any other appropriate source.
 - 3.1.2.4 to take whatever actions may be necessary to carry out the Agency's mission during emergencies.

Nothing in this Agreement shall preclude the NRC and the Union from negotiating:

- 3.1.3 At the election of the NRC on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour-of-duty, or on the technology, methods, and means of performing work.
- 3.1.4 Procedures which management officials of the NRC will observe in exercising any authority under this section; or
- 3.1.5 Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

3.2 Agency Regulations and Policies

The Agency shall comply with its own regulations and policies governing personnel policies and practices and general conditions of employment insofar as they affect the working conditions of bargaining unit employees. The policies covered by this section include all or part of the following Management Directives, and related "yellow announcements:" Volume 2 – Information Technology; Volume 7 – Legal and Ethical Guidelines; Volume 10 – Personnel Management; Volume 13 – Transportation, Facilities and Property; and Volume 14 – Travel.

This section shall not be construed to require the Agency to issue, change or retain such regulations and policies, which it may continue to do in accordance with law.

3.3 Merit System Principles

In accordance with applicable FLRA case law, the Merit Systems Principles incorporated in this section do not independently authorize and, therefore, cannot serve by themselves as the basis of a grievance or legal action by an employee or the union, nor may they serve as an independent basis for an arbitration remedy.

- 3.3.1 Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity.
- 3.3.2 All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
- 3.3.3 Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector and appropriate incentives and recognition should be provided for excellence in performance.
- 3.3.4 All employees should maintain high standards of integrity, conduct and concern for the public interest.
- 3.3.5 The Federal work force should be used efficiently and effectively.
- 3.3.6 Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
- 3.3.7 Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.
- 3.3.8 Employees should be:

- 3.3.8.1 protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
 - 3.3.8.2 prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
- 3.3.9 Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences:
 - 3.3.9.1 a violation of any law, rule, or regulation, or
 - 3.3.9.2 mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.

3.4 Prohibited Personnel Practices

The NRC shall not:

- 3.4.1 Discriminate for or against any employee or applicant for employment:
 - 3.4.1.1 on the basis of race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964,
 - 3.4.1.2 on the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967,
 - 3.4.1.3 on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938,
 - 3.4.1.4 on the basis of a disabling condition, as prohibited under Section 501 of the Rehabilitation Act of 1973,
 - 3.4.1.5 on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.
- 3.4.2 Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of:
 - 3.4.2.1 an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
 - 3.4.2.2 an evaluation of the character, loyalty, or suitability of such individual.

- 3.4.3 Coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as reprisal for the refusal of any person to engage in such political activity.
- 3.4.4 Deceive or willfully obstruct any person with respect to such person's right to compete for employment.
- 3.4.5 Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.
- 3.4.6 Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.
- 3.4.7 Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position, any individual who is a relative (as defined in Section 3110 (a) (3) of 5 U.S.C.) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in Section 3110 (a) (2) of 5 U.S.C.) or over which such employee exercises jurisdiction or control as such an official.
- 3.4.8 Take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for:
 - 3.4.8.1 a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
 - 3.4.8.2 a disclosure to Special Counsel of the Merit Systems Protection Board, or to the Inspector General of the NRC or another employee designated by the head of the NRC to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- 3.4.9 Take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation.

- 3.4.10 Discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this subsection shall prohibit the NRC from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or the United States.
- 3.4.11 Take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in the Civil Service Reform Act of 1978.

3.5 Employee Donations

NRC and NTEU support the efforts and involvement of employees participating in activities such as the Combined Federal Campaign (CFC), Federal Savings Bond Drive and Blood Drives and recognize that employees have the right to choose to participate or not in such drives. While the agency has the right to provide information and materials concerning these activities, no employee will be coerced into participating nor will their right not to participate be denied.

Article 4

Union Rights and Responsibilities

4.1 Exclusive Representative

The Union is the exclusive representative of the employees and it is entitled to act for all employees in the unit. It is responsible for representing the interests of all employees without discrimination and without regard to membership in the Union. The Union is also responsible, as an institution, for any breach of this Agreement; and, for any action of its Chapter officers and stewards which breach the Agreement.

4.2 Formal Meetings

The Union shall be given the opportunity to be represented at any formal discussion [as defined in 5 U.S.C. 7114 (a)(2)(A)] between one or more representatives of the NRC and one or more employees or their representatives concerning any grievance (to include settlement discussions on grievances, MSPB appeals and EEO complaints or ADR sessions, to the extent required by law), or any personnel policy or practice or other general condition of employment. Accordingly, advance notice of any formal discussion that is to be held will be provided to the Chapter President (or designee). This advance notice will be given unless management has been prevented from doing so due to an emergency. In situations involving a meeting with a large group of employees (such as a meeting with a Division, Office or Agency), NTEU shall receive at least a three (3) workday notice of the meeting, unless mission requirement necessitates less notice. In such cases, the Union will be given as much advance notice as possible.

4.3 NTEU Formal Meeting Participation

At the start of each formal discussion, the NRC management representative will ask any Union representative who may be present to state his or her name. Furthermore, the NRC management representative will permit the Union representative to ask relevant questions, and to present a brief statement before the end of the meeting outlining the Union's position concerning the issues presented by management, and to have full participatory rights during the meeting to the extent accorded to other employees. Where the Agency determines it is in the best interest of the government, the Union shall have, subject to workload and space restrictions, up to ten minutes following the conclusion of the meeting to address the employees in private. When the issues to be discussed (in a formal meeting) have been listed in a written agenda, a copy will be forwarded to the Union prior to the meeting. NRC management has the right to control the meeting and to adjourn it as NRC management sees fit.

4.4 No Strike Clause

The Union agrees there will be no strike, work stoppage, sick-out, or slowdown. The Union further agrees there will be no picketing of the NRC in a labor-management dispute if such picketing interferes with the NRC's operations. The Union further agrees not to condone any such activity by failing to take action to prevent or stop such activity.

Article 5

Equal Employment Opportunity

5.1 Policy

It is the policy of the NRC and Union to support an affirmative and positive Equal Employment Opportunity (EEO) program. Discrimination on the basis of race, color, religion, national origin, sex, age, sexual orientation, marital status, political affiliation, genetic information, reprisal or nonrestrictive disabling condition will not be tolerated in personnel policies, practice and employment conditions.

5.2 EEO Complaints and Other Alternative Processes

- 5.2.1 Any matter that falls within the scope of the EEO complaint process may be raised in a formal EEO complaint or through the negotiated grievance procedure, but not both. Employees whose claims fall outside the scope of the EEO complaint process (i.e., claims that may not be brought before the EEOC) may nonetheless raise such matters through the negotiated grievance procedure (Article 46, Grievance Procedures).

Agency communications concerning the EEO program, including web pages, brochures, counselor training and employee information sessions, will state that employees may pursue EEO matters through the negotiated grievance procedure or other alternative processes, and provide a link to the EEOC regulation addressing those processes. (29 CFR 1614, Subpart C).

- 5.2.2 To the extent required by law, the Agency agrees to invite NTEU to attend mediation sessions under the ADR Program where the employee and the Agency are meeting.

5.3 EEO Committees

NRC recognizes that NTEU is the exclusive representative for employees with regard to personnel policies and practices and other conditions of employment. However, NTEU also recognizes that the EEO Advisory Committee's function is to advise the Agency on the continuing development and implementation of the Agency's EEO program, including, but not limited to: affirmative employment, upward mobility, and recruitment efforts. NTEU may appoint one sitting member to each of the EEO committees as its formal representative inside each committee. All recommendations from the EEO Advisory Committees impacting personnel policies, practices, or other conditions of employment will be shared with NTEU prior to being presented for the Agency's consideration. No sooner than five working days after presentation of recommendations to the union chapter president, Advisory Committee recommendations may be presented to the Agency in their original form, irrespective of union view. The Agency is not bound by any recommendation provided by the EEO Advisory Committee. However, if the Agency determines that the EEO Advisory Committee's recommendations should be implemented, the Agency will first provide notice and the opportunity to bargain to the union, to the extent required by law.

NTEU will be invited to send one representative to attend any meeting of the Diversity Management Advisory Committee (DMAC). The Agency will notify NTEU of the time, date and place of these meetings.

5.4 EEO Training

NTEU will be permitted to send one representative to attend each training session for EEO counselors as an observer. Any travel expenses associated with attendance at such training by an NTEU representative will be borne by NTEU.

5.5 Changes to EEO Programs

To the extent provided by law, the agency will provide the Union with notice and the opportunity to bargain over changes to its Affirmative Action Plan and other EEO programs, including ADR.

Article 6

Hours of Work

6.1 Official Hours - Headquarters

Official hours at NRC Headquarters offices shall be from 7:30 a.m. to 4:15 p.m. (includes an unpaid 45-minute rest or meal period) on Monday through Friday of each week except for official holidays.

6.2 Official Hours - Regional Offices

Official hours and core hours in Regional Offices shall be negotiated locally in each Regional office. It is agreed that official hours in the Regions will maximize, to the extent feasible, the hours of overlap with Headquarters official hours when time zone adjustments are taken into consideration.

6.3 Breaks

An employee whose schedule includes more than six hours of nonovertime work on a day must take a minimum 45 minute unpaid meal break or rest period after working no more than six continuous hours of nonovertime work (a longer period may be included in NEWFlex and First-40 work schedules). The clock hours during which a break is taken are subject to management approval based on work requirements including office coverage, and employees may not take the break at the beginning or end of the workday to shorten the workday.

6.4 Factors Governing Establishment and Adjustment of Work Schedules

Work schedules and work schedule adjustments will be required and approved or denied based on work requirements including, but not limited to, office coverage, training, or participation in collaborative projects. Other considerations include a need for direct supervision for less than satisfactory performance or identified time and attendance issues.

6.5 Office Coverage

Management may determine the number and types of employees needed to provide adequate office coverage. Adequate office coverage shall normally be considered to exist when there is an adequate number of employees available to carry out that segment's responsibilities and to knowledgeably respond to all inquiries regarding the segment's primary function and ongoing projects. Adequate office coverage also includes the availability of sufficient staff to respond to ongoing events which have a significant impact on agency mission or operations.

6.6 Approval of Work Schedules

Each employee shall request in writing through the work schedule request function in HRMS the approval of his/her supervisor to work one of the following:

- 6.6.1 the official hours;
- 6.6.2 a Compressed Work Schedule (5-4/9, or expanded compressed in limited circumstances;
- 6.6.3 a NEWFlex work schedule; or

- 6.6.4 a "First-40" schedule (in limited circumstances in accordance with law).
- 6.6.5 An employee's work schedule request will be approved unless the request would interfere with work requirements, such as office coverage, training, or participation in collaborative projects, and/or based on a need for direct supervision of an employee due to less than satisfactory performance and/or identified time and attendance issues. A work schedule request which would result in a liquidation of credit hours may be disapproved by a supervisor. In such cases, the employee's supervisor may require the employee to adopt a particular work schedule based on those work requirements and/or performance/time and attendance issues. Schedule requests shall be approved or denied by a supervisor or designee, in writing, no later than ten (10) workdays after receipt of the request, absent extenuating circumstances. Where the employee's schedule cannot be granted as requested, the supervisor or designee will work with the employee to find a mutually acceptable alternate schedule to the extent feasible.

6.7 Scheduling

A change requested by an employee will be effective no earlier than the first day of the first full pay period after the supervisor or designee authorizes or requires the change.

Supervisors shall consider factors enumerated in this article when making decisions regarding employee requests for CWS and/or NEWFlex days off. When two or more employees in an organizational segment request the same CWS and/or NEWFlex day off in a pay period which cannot both be approved, the employees shall attempt to resolve the issue. If they cannot resolve it, the supervisor or designee shall make the final decision, based on seniority by date of NRC Entry on Duty (EOD).

6.8 Compressed Work Schedules (CWS)

- 6.8.1 A full-time compressed work schedule has an 80-hour, biweekly basic work requirement that is fixed and scheduled for fewer than 10 basic workdays.

The type of CWS that employees may work at NRC is a 5-4/9, a part-time CWS, or under specified circumstances an "expanded compressed work schedule."

- 6.8.2 A 5-4/9 CWS has nine basic workdays, eight of which are 9-hour workdays and one of which is an 8-hour workday.

Mondays through Fridays normally are the only permissible basic workdays; however, each office and region, at its sole discretion, may permit Saturday basic workdays subject to work requirements.

All of the 9-hour basic workdays must have the same clock hours, may begin as early as 6:00 a.m. (would end at 3:45 p.m.), may end as late as 6:00 p.m. (would begin at 8:15 a.m.), and must start and end on a 15-minute increment.

A part-time CWS has a biweekly basic work requirement that is fixed, comprised normally of 32 to 64 hours (see exceptions in Management Directive (MD) 10.13), scheduled on fewer than 10 basic workdays, has at least one basic workday comprised of more than 8 hours, and has workdays and work clock hours set within the days and times stated above.

6.8.3 Expanded-Compressed Work Schedule

6.8.3.1 This is a type of compressed work schedule (CWS), normally established on a short-term basis, that deviates from the agency's standard 5-4/9 CWS.

6.8.3.2 The schedule may be appropriate, for example, for emergency response work, or for inspections, hearings, or other work associated with licensee-site-area visits. The schedule is not appropriate for work performed at an employee's official duty station (with the exception of emergency response work); during attendance at a conference or training; while on international travel; while on travel to Regional Offices or Headquarters; or in situations which involve brief work periods for which other more appropriate work schedule/compensation mechanisms exist (e.g., overtime, or compensatory time off).

6.8.3.3 This work schedule has the following characteristics:

The days and hours of work must be predictable yet not conform with an employee's existing work schedule;

A full-time employee may, with supervisory approval, compress more than eight or nine regular (nonovertime) hours into a workday and fewer than nine workdays into a pay period (part-time employees may participate as well). For example, an employee might be scheduled to work eight 10-hour workdays in a given pay period;

There are no restrictions on the times an employee may be scheduled to work (including at night and on weekends), which may result in premium pay.

6.9 NEWFlex

6.9.1 NEWFlex is a flexible work schedule which splits the workday into two distinct kinds of time: core time and flexible time.

- 6.9.2 Core time represents the basic workdays and clock hours that employees must work, or must officially account for not working by taking leave, compensatory time off, credit hours, excused absence, etc. The core hours are from 10:30 a.m. to 1:30 p.m. each Wednesday. However, Office Directors may, at their sole discretion, reduce the core hours within this timeframe to as little as 1 hour per pay period.
- 6.9.3 Employees may not work regular or credit hours on Sundays or federal holidays. For purposes of pay and scheduling, full-time NEWFlex holiday clock hours: at Headquarters are from 7:30 a.m. to 4:15 p.m. (includes an unpaid 45-minute rest or meal period); and, in each Regional office, may differ and must match the Region's official duty hours (which include a 45-minute unpaid rest or meal period).
- 6.9.4 NEWFlex is a type of flexible work schedule in which selected arrival and departure times are fixed until changed. The employee must work the approved schedule for the pay period except when, under special circumstances, the employee obtains the approval of his or her supervisor to change to another schedule. NEWFlex work schedules shall be in 15 minute increments. Employees on NEWFlex may request to begin their workday as early as 5:00 a.m. and/or to end their workday as late as 8:00 p.m. However, Office Directors and Regional Administrators, at their sole discretion, may extend the hours to as late as 11:00 p.m. Employees normally are not eligible for night premium pay for any non-overtime hours worked. Employees may include non-contiguous hours (split-shift(s)) in their work schedules.
- 6.9.4.1 Employees on a NEWFlex work schedule will also be permitted to "glide"; that is, subject to mission accomplishment, they may arrive/depart up to 1 hour before or after their scheduled arrival/departure time, but not earlier than 5:00 a.m. and not later than 8:00 p.m. (or as late as 11:00 p.m. if basic workday(s) may end that late), and must work and/or take official time off (approved leave, compensatory time off, credit hours, excused absence, etc.) for the same amount of work hours as were originally scheduled. Gliding is not to be used on a regular basis or in lieu of a permanent schedule change.
- 6.9.5 Employees may request to work fewer than ten days in a pay period, and may account for up to 11.25 hours a day including regular hours, credit hours earned/used, leave used, excused absence used, and compensatory time off used (regular, religious, and Special Compensatory Time Off for Travel). This limit does not apply to: overtime work, whether uncompensated, or compensated via overtime pay or regular compensatory time off; religious compensatory time off earned; or Special Compensatory Time Off for Travel Earned. The schedule for full time employees may mirror a compressed work schedule such as a 5-4/9 or a 4-10 or even a regular 10 day workweek 8 hour workday schedule. It is not necessary that an employee schedule the same number of and/or clock hours each work day.

- 6.9.6 Except as below, if the NEWFlex work schedule which was previously approved shall be terminated, the supervisor shall inform the employee on or before the first workday of a pay period, and the termination will become effective the first workday of that pay period. In an emergency, such as unexpected changes in workload, the termination may become effective as early as the first day of the pay period in which the change is communicated. Such decision shall be based upon the criteria set forth in Sections 6.4, 6.5, and 6.6.5 of this Article.

6.10 Credit Hours

Employees who are on NEWFlex work schedules may participate in the Credit Hour Program.

Unless a supervisor approves an exception as explained below, an employee must submit to his or her supervisor and must obtain that supervisor's prior concurrence of a plan documented via the "Leave/Additional Hours Request" function in the Human Resources Management System (HRMS). The plan reflects the days and clock hours that the employee wishes to earn and/or use credit hours. If it is impractical to request and obtain prior approval via the HRMS request function, the employee may request and obtain verbal approval, normally prior to earning and/or using credit hours, subject to subsequent confirmation via the HRMS request function, unless the supervisor, at his or her sole discretion, permits the plan to be requested only verbally and grants approval only verbally without a requirement for subsequent written confirmation via the HRMS request function. If an employee wishes to deviate from an approved plan, he or she must typically obtain his or her approving official's prior verbal approval. Actual credit hours earned or used are recorded by the employee and reviewed and approved as appropriate by the supervisor via the HRMS "Timesheet" function, and employees will not be required to revise an original credit hour request in HRMS.

Approval of an employee's request to earn credit hours will be based on work requirements including, but not limited to: office coverage; training; participation in collaborative projects; and the need for direct supervision due to less than satisfactory performance or identified time and attendance issues.

Credit hours may be earned at the employee's worksite, whether it is on the agency's premises, at a temporary duty location, or at an alternate work location under an approved Telework Program.

Employees may earn credit hours by working earlier than their scheduled arrival time or by working later than their scheduled departure time, but no earlier than 5:00 a.m. and no later than 8:00 p.m. (as late as 11:00 p.m., if the office or region permits basic workdays to end that late).

Credit hours are allowable only on permissible basic workdays, which do not include holidays. Saturdays are considered permissible basic workdays for this purpose, even if an employee is not scheduled to work regular hours on Saturdays, if the employee's office director, regional administrator, or supervisor or other time and attendance approving official has not prohibited Saturday basic workdays.

Credit hours that are earned or used are subject to the 11.25 daily maximum described in Article 6.9.5.

Employees may not earn credit hours: before 5:00 a.m.; after 8:00 p.m. (except that employees may earn credit hours later, as late as 11:00 p.m., if basic workdays are permitted to end that late); during a 45-minute rest or meal period; on Saturdays if Saturday basic workdays have been prohibited; on Sundays; on holidays; or while in the act of travel (for example, while driving an automobile or as a passenger in an automobile or airplane), but may earn credit hours, if otherwise eligible, for performing work at the destination to which the employee traveled.

Employees may earn credit hours of not less than a total of one-half credit hour per day, and any extra credit hours earned must be in 15-minute increments. Credit hours are used in 15-minute increments.

Full-time employees may carry over a maximum of 24 credit hours from one pay period to the next, and part-time employees may carry over a maximum of $\frac{1}{4}$ of their scheduled biweekly tour of duty. Any excess credit hours will be forfeited and the employee may not otherwise be compensated for this forfeited time.

Credit hours may be earned and used, overtime may be earned, one or more types of compensatory time off may be earned and used, excused absence may be used, and one or more types of leave (including leave without pay) may be used, during the same day, workweek, or pay period, if appropriate and approved.

Approving official authorization or disapproval of an employee's use of credit hour time off will be based on the same criteria that apply to annual leave.

Employees may use credit hours only for those hours that they are regularly scheduled to work.

With approving official authorization, employees may use credit hours before earning them, but must subsequently earn the credit hours in the same pay period that they are used. Employees are to substitute appropriate leave, earned compensatory time off, etc., for any negative credit hour balance at the end of the pay period.

Employees will be paid (at their current rate of pay) for accumulated and unused credit hours only upon switching to a work schedule other than NEWFlex or upon leaving the agency. This payment is not subject to the biweekly or annual limitation on combined salary plus premium pay, nor are credit hours earned subject to this limitation, because credit hours are considered a type of work schedule adjustment versus a form of compensation. Employees may not be paid for more credit hours than they are permitted to earn, for example, for more than a total of 24 credit hours for full-time employees.

6.11 "First 40" Schedule

A "first 40" schedule may be approved for those employees, such as resident inspectors, where it is impracticable to prescribe a regular schedule of definite hours of duty for each workday of a regularly scheduled administrative workweek. A first 40 work schedule requires employees to work 40 hours without the requirement for specific days and hours. These 40 hours are all considered regularly scheduled nonovertime work for hours of duty purposes. Any additional hours (in excess of forty within the administrative workweek) of officially ordered, approved, or suffered or permitted work, as appropriate, are considered overtime work for premium pay purposes.

6.12 Supervisory Discretion

A supervisor may approve duty hours other than those described in this Agreement. However, a supervisor's refusal to approve a request for such duty hours shall be non-grievable and non-arbitrable.

6.13 Grievability

Employees may grieve denials of work schedule requests starting at Step B except for the following:

- 6.13.1 denial of a work schedule request where a prior request was approved during the prior 3 months;
- 6.13.2 denial of a specific CWS day off, as long as the employee has been granted either a Monday or Friday as his/her CWS day off;
- 6.13.3 denial of an employee's request to work a schedule beginning before 6:00a.m., or ending after 6:00p.m.;
- 6.13.4 denial by the supervisor of a work schedule not described in this agreement.

Article 7 Telework

7.1 General

This Article pertains to the implementation of a Telework Program whereby participants are allowed to work at home or at other approved off-site locations. For the purposes of this article the terms “telework” and “telecommuting” can be used interchangeably, and can include “work-at-home.”

A teleworker is distinguishable from a satellite worker. A satellite worker is a NRC employee whose official worksite is a NRC facility that is not the same as the employee’s office worksite. For example, an employee who works for a Headquarters office but whose official worksite is a NRC Regional Office building is a satellite worker. The provisions of this article do not apply to a satellite worker (unless they work at home or other appropriate approved location).

NRC and NTEU jointly recognize the benefits of the Telework Program which can, among other things, provide the opportunity to enhance work place efficiency, increase employee morale, and reduce traffic congestion. In recognizing these benefits, both parties acknowledge the need of the Commission to accomplish its mission.

Participants in the telework program will receive the same treatment as non-participants for the purposes of performance evaluations; training, rewarding, reassigning, promoting, reducing in grade, retaining and removing employees; work requirements; and other acts involving managerial discretion.

7.2 Management Discretion

Telework is subject to approval by management and is not an employee entitlement. Approval or denial of an employee’s request to telework will be based on applicable law, regulation, and the provisions of this Article.

Management has the discretion in deciding whether a particular position or class of positions is appropriate for the Telework Program based on the content of the work, consistent with the criteria set forth in this Article.

Although an employee may request a particular day(s) and/or time to telework, NRC management has final approval.

7.3 Types of Telework

Employees on any work schedule, including part-time employees, phased retirement participants, and satellite workers, may be approved for telework subject to the provisions of this Article. The following telework schedules are available:

7.3.1 Fixed – a recurring telework arrangement with a fixed schedule that designates the day(s) and hours each pay period in which work will be performed at the employee’s home or approved offsite location.

7.3.1.1 A request for approval of a fixed telework schedule that does not exceed one day each workweek shall be submitted to the first line supervisor.

- 7.3.1.2 A request for approval of a fixed telework schedule that exceeds one day each workweek but does not exceed three days each workweek shall be submitted to the applicable Office Director or Regional Administrator unless an alternate management contact has been identified.
 - 7.3.1.3 A request for approval of a fixed telework schedule that exceeds three days each workweek shall be submitted to the Office of the Chief Human Capital Officer (OCHCO).
- 7.3.2 Project-based – short term telework, when an employee’s work assignments, or a portion thereof, can be performed remotely for a short period of time. The duration of an approved project-based telework arrangement can be measured in terms of hours or a few days.
 - 7.3.2.1 A request for project-based telework shall be submitted to the first-line supervisor. However, a request for project-based telework that exceeds five consecutive full work days shall be submitted to the second line supervisor unless an alternate management contact has been identified.
 - 7.3.2.2 The employee must request and receive management’s approval for each and every project-based telework occurrence. The supervisor must document each specific project-based telework arrangement.
- 7.3.3 Special Circumstances – a non-permanent telework arrangement for a relatively short period of time due to a personal incapacitation or personal hardship.
- 7.3.4 Continuity of Operations (COOP) – telework performed to insure that the Agency can continue to perform critical functions during a wide range of emergencies, including but not limited to, acts of nature, accidents, and technological or attack-related emergencies.
- 7.3.5 If an employee requests a telework arrangement (on any type of schedule) to enable him or her to perform the full range of his or her official duties, this is a request for reasonable accommodation that must be submitted to the Agency Reasonable Accommodation Coordinator in OCHCO.

7.4 Eligibility

- 7.4.1 Any employee, on any work schedule, including a part-time employee, may request a telework arrangement. Subject to the provisions set forth in Section 7.2, an employee will be eligible for a telework arrangement if:

- 7.4.1.1 He or she has sufficient duties that are portable and that can be effectively performed outside of the traditional office setting (e.g., face to face contact with others that is predictable or can be managed through other means of communications; access to necessary materials is readily available through alternative means that will not violate any law, regulation, or policy). While an employee's position may not have sufficient portable duties to provide eligibility to telework regularly on a fixed schedule, the employee may still have portable duties associated with a particular assignment that would be eligible for project-based telework (e.g., on-line mandatory training).

An employee who routinely or regularly deals with classified, confidential, or sensitive documents or data or information that is not available from home (e.g., personnel and/or payroll records, non-public (NRC restricted) information, or information protected from unauthorized disclosure by the Privacy Act of 1974 and its implementing regulations), must be authorized to remove such documents from an NRC facility or have sufficient other work to justify the requested telework schedule.

- 7.4.1.2 The employee's absence from the work site does not unduly interfere with the efficient operation of the organization, or the employee does not require frequent face-to-face interaction with supervisors, co-workers and/or others, or use of specialized equipment.

- 7.4.1.3 The employee's latest rating of record in all critical elements is "fully successful" or better, and the employee has demonstrated and maintained acceptable work habits, conduct, and adherence to agency policies. Failure in any of these areas must have been documented in writing prior to the date of the employee's telework request to justify denial.

- 7.4.2 In accordance with the provisions of Public Law 111-292 (otherwise known as the Telework Enhancement Act of 2010), an employee is not eligible to telework under any circumstances if he or she has been officially disciplined (i.e., a warning, reprimand, or suspension):

- 7.4.2.1 For being absent without leave (AWOL) for more than 5 days in any calendar year; or
- 7.4.2.2 For violation of Subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal government computer or while performing official government duties.

- 7.4.3 Telework may not be used for dependent or child care. A teleworker must continue to make arrangements for child or dependent care to the same extent as if he or she was working at the traditional office. If a situation arises where the employee must attend to a dependent at the alternative worksite during scheduled duty hours, the employee shall immediately notify the supervisor and arrange to take leave, credit hours, or make other arrangements. If an employee uses telework to provide for dependent or child care, he or she will be ineligible for telework until such time as arrangements for care are made.

7.5 Training

All employees are required to complete training prior to beginning a telework schedule. The telework training can be found on the NRC's online training system. The training certificate certifying completion must be attached to the employee's telework agreement.

7.6 Request to Participate in the Telework Program

- 7.6.1 An employee requesting a project-based, fixed schedule or special circumstances telework arrangement must submit a signed telework request pursuant to Section 7.3.
- 7.6.2 The employee must submit a new telework request when either of the follow occurs:
- 7.6.2.1 The employee is promoted, reassigned, detailed to a different position, or goes on a rotation to a different position; or
 - 7.6.2.2 The employee wishes to make any change to the telework agreement, such as the number of days or hours of telework, the location of the alternative worksite, etc.
- 7.6.3 An employee also may be required to re-certify their telework arrangement on an annual basis to ensure that all information is accurate and up-to-date.

7.7 Responses to Requests to Participate in the Telework Program

The employee's request will be reviewed and discussed with the employee. In deciding whether to grant or deny a request, the applicable official will consider the factors set forth in Sections 7.2 and 7.4 of this Article.

- 7.7.1 Approvals of Requests for Telework

The telework agreement forms document the terms and conditions of participation in the program. The agreement must be signed by both parties and approved in accordance with the provisions of this Article prior to the start of the telework arrangement.

Employees approved for telework agree to abide by the terms of the work at home agreement and complete an off-site safety checklist. In addition, employees approved for telework must agree to complete an information security checklist and abide by the terms of the agency drug testing policy.

7.7.2 Denials of Requests for Telework

- 7.7.2.1 If a request to participate in the Telework Program is denied, within ten (10) days of the denial, the employee will be provided an explanation in writing for the denial, specifying the reason(s) for the denial, specifically identifying which of the criteria set forth in Section 7.4 the employee has failed to meet.
- 7.7.2.2 An employee may request, through the Agency Telework Coordinator, a review of the denial of his/her telework request. In such a case, the Agency Telework Coordinator will discuss the situation with appropriate parties and provide a recommendation to the appropriate management official, who will make a final decision. The management official's final decision is grievable starting at the Step B of the negotiated grievance procedure.
- 7.7.2.3 Within ten (10) workdays of the management official's final decision as described in 7.7.2.2 above, the Agency will provide the Union a copy of such decision.
- 7.7.2.4 The Union may request review of a decision to exclude a class of positions from eligibility for the fixed schedule Telework Program by the Office of the Chief Human Capital Officer. The Office of the Chief Human Capital Officer will review the matter and make a recommendation to the appropriate management official. Upon request, the Agency will provide a written explanation to the Union for excluding positions from fixed schedule telework eligibility.

7.8 Modification or Temporary Suspension of the Agreement

A supervisor may modify or temporarily suspend, for a specified period of time, a Telework arrangement. Management retains the right to make decisions to modify or temporarily suspend a Telework arrangement on a case-by-case basis and based on business needs. Where a telework schedule is modified or temporarily suspended, advance written notice will be provided where practicable. Supervisors and employees should work together to find a mutually acceptable alternative telework schedule where possible. Such modifications or temporary suspensions are expected to be short in duration and infrequent.

7.9 Termination of the Agreement

- 7.9.1 Participation may be terminated by the employee at any time. A supervisor may terminate the employee's telework arrangement if:

- 7.9.1.1 The employee fails to adhere to any of the provisions of the telework agreement;
 - 7.9.1.2 The employee's performance in any critical element falls below a rating of Fully Successful;
 - 7.9.1.3 Appropriate work is no longer available or a specific project has been completed;
 - 7.9.1.4 Office coverage requirements are not being met;
 - 7.9.1.5 The employee fails to truthfully report his or her time worked;
 - 7.9.1.6 The employee misuses government equipment; or
 - 7.9.1.7 The employee fails to meet any of the telework eligibility requirements outlined in 7.4 above.
- 7.9.2 If an employee wishes to discontinue his or her telework arrangement, he or she must notify his or her supervisor.
- 7.9.3 If a Telework arrangement is terminated, the participant may request that the Agency Telework Coordinator review the termination. In such cases, the Agency Telework Coordinator will discuss the situation with the appropriate parties and provide a recommendation to the appropriate management official who will make a final decision in a timely manner. The management official's final decision is grievable starting at Step B of the negotiated grievance procedure.

Within 10 workdays of the management official's final decision to terminate participation, the Union will be provided notice of the final termination decision.

Employees may reapply for telework 90 days after the decision to terminate participation.

7.10 Full-Time Telework

- 7.10.1 Any employee who meets the criteria listed in Section 7.4 may request a full-time telework schedule. To be approved, the employee must have duties that are 100% portable. Management has the sole discretion to determine whether duties are 100% portable and to approve or deny such request. Management also has the discretion to terminate the full-time telework agreement if the work is no longer 100% portable or for any reason described in Section 7.8 above. Management will not deny such requests in an arbitrary or capricious manner. In the event the agreement is terminated, the employee is responsible for all costs associated with returning to the original official duty station. The supervisor will provide written notice of termination, and the employee will normally have at least 30 but not less than 15 days to report to

the original official duty station. An employee may request in writing additional time to report to the official duty station. The supervisor will consider any such request on a case-by-case basis.

- 7.10.2 The alternative worksite will be the official duty station for any employee working full-time at the alternative location who is not scheduled to report to the NRC facility at least twice per pay period. The official duty station will be used to determine employee pay, locality pay, and travel funding responsibilities and will be documented in the employee's Official Personnel Folder. Any relocation costs associated with moving are the sole responsibility of the employee.
- 7.10.3 If the NRC office and the alternative worksite are within a reasonable commuting distance, then travel between the NRC office and the alternative worksite is considered local travel, and there is no travel reimbursement for travel expenses.
- 7.10.4 A request for full-time telework at a location outside of the United States is subject to U.S. Department of State approval and such approval may take several months to procure. An employee requesting such a telework arrangement will not be able to begin to telework internationally until the State Department approval has been procured.

7.11 Special Circumstances Work at Home

All special circumstances work at home arrangements require well-documented evidence and may be subject to review by an independent expert on behalf of the NRC.

Medical documentation must include the number of hours and/or days an employee would be capable of working during the workday/pay period and the duration of the situation or circumstance giving rise to the work at home request.

All special circumstances work at home plans are non-permanent arrangements for relatively short periods of time. There is no minimum period for which a plan can be approved. Generally, work at home arrangements will be approved for a period not to exceed six (6) months. Determinations regarding the duration of all work at home plans will be made on a case by case basis. In unusual circumstances where the need continues beyond 6 months, an employee may request an extension. The request for an extension must be accompanied by medical or other relevant documentation to support the extension.

All special circumstances work at home requests, including extensions, must be submitted through the Office Director or Regional Administrator to the Office of the Chief Human Capital Officer for approval NRC/NTEU Collective Bargaining Agreement prior to the start of the arrangement or extension.

7.12 Performance of Work

Performance requirements for teleworking employees are the same as those for non-teleworking employees. Nothing in this article shall affect management's right to assign work or make reasonable requests to ascertain the status of work assignments.

A teleworking employee will be available at a specified alternative worksite to supervisors, co-workers, and the public by telephone, voicemail, e-mail, and other communications mediums during his or her regularly scheduled hours of work. The nature of telework may result in reasonable inquiries or communications to the teleworker not made to the staff as a whole. An employee will not be subject to enhanced electronic tracking or surveillance solely because he or she is teleworking. This provision does not apply to the OIG or security-related activities of the Agency.

Time spent teleworking must be accounted for and reported in the same manner as if the employee reported for duty at the NRC worksite. Normal procedures regarding the requesting and approval of leave, overtime, and credit hours apply when an employee is teleworking.

7.13 Technology, Equipment, and Supplies

Generally, an employee will be responsible for providing his or her own computer equipment to perform his or her official duties at the alternative worksite. This includes his or her own printer or other equipment if required to successfully telework. The employee is expected to provide plug in cables, paper, and ink/toner, and to perform basic use maintenance and repair of all personally owned equipment.

The Agency agrees to provide the teleworking employee with all necessary office supplies and also reimburse him or her for business-related long distance telephone calls. The participant may request a federal calling card from the Office IT Coordinator.

The teleworking employee must comply with all information technology security measures so that all Privacy Act and other security standards are not compromised.

The employee will be responsible for all operating costs, home maintenance, insurance, or any other costs (e.g., utilities, internet service) associated with the use of an alternative worksite.

7.14 Continuity of Operations in Weather or Emergency Conditions

Agency closures due to weather, road conditions, or other emergency conditions do not normally affect an employee's ability to telework. Therefore, all employees with an approved telework agreement are expected to work their normal tour of duty by teleworking on those days when the government has unscheduled leave/unscheduled telework, delayed arrival, early dismissal, or Federal offices are closed to the public. All such employees will not normally be granted excused absence. If an emergency occurs at the telework site that impacts an employee's ability to perform official duties, the employee will notify his/her supervisor as soon as practicable. The supervisor may direct the employee to another work site, grant excused absence, or allow the employee to request appropriate leave, e.g., annual leave or LWOP.

Telework is a vital part of the NRC's Continuity of Operations (COOP) plan. When the agency is operating under COOP, the COOP Plan will supersede the telework policy.

7.15 Reports

The Union will be provided with a copy of any OCHCO reports or data regarding telework participation provided to any other government entity (e.g., OPM, OMB, GSA or Congress). However, internal NRC reports that are management advice and guidance are not covered by this section.

Article 8

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Former Special Circumstance Work-At-Home. See Article 7, Section 11 for current Special Circumstances Work-at-Home.

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Article 9 Holidays

9.1 Work Assignments on Holidays

Unless NRC determines that a specific employee(s) is required to work an established U.S. Government holiday, NRC agrees to direct such work assignments based on seniority among qualified employees. In situations where there are volunteers, NRC agrees to use the most senior employee(s); in those cases where there are no volunteers, NRC agrees to use reverse seniority.

9.2 Notification to Employees

The NRC agrees to notify employees who are directed to work an established U.S. Government holiday as soon as practicable after the need is known.

Article 10

Annual Leave

10.1 Annual Leave

Employees shall earn and use annual leave in accordance with applicable law and regulations.

10.2 Requests

- 10.2.1 Requests for annual leave which are for periods of three consecutive workdays or less must be made in advance and may be made orally unless a supervisor requires the requests to be in writing or e-mail. Requests for annual leave which are for periods in excess of three consecutive workdays shall be made in advance and in writing. Requests to use annual leave shall be granted or denied promptly (no later than 10 workdays after receipt of the request, absent extenuating circumstances). The supervisor may deny annual leave requests for reasons related to the employee's workload, and/or the workload in the employee's organizational segment which could affect the employee's workload.
- 10.2.2 In the event that a supervisor denies an employee's request for annual leave during a specific time period due to workload restrictions, the supervisor will, if requested and to the extent practicable, specify an alternative time when the block of requested leave may be taken.
- 10.2.3 Once an employee's request for annual leave has been approved, the approval may not be revoked unless, because of changed circumstances, the employee's absence would cause a severe workload problem.
- 10.2.4 When two or more employees' requests for annual leave create a workload problem in the employees' organizational segment, the employees will be requested to resolve the problem among themselves. If they are unable to do so, the requests, if granted, will be granted in the order that the supervisor received them.
- 10.2.5 If annual leave is denied, and upon request by the employee, the supervisor will promptly provide a brief explanation of the reason(s) for the denial of the leave request (no later than 10 workdays after receipt of the denial, absent extenuating circumstances).
- 10.2.6 When an employee unexpectedly needs annual leave, the employee should request annual leave to the extent practicable by notifying his/her supervisor or designee by his/her normal starting time. Notification can be accomplished by speaking with the supervisor directly or leaving a voicemail and/or e-mail message with a return number, requesting leave, providing an explanation of the need for the requested leave, and giving the reason for not having secured advance approval. The supervisor will approve or deny the request in accordance with the provisions of this Article.

10.3 Consecutive Leave Weeks

Subject to the provisions of Section 10.2, the NRC agrees to grant annual leave in a manner which permits each employee, if he/she wishes, to take at least 2 consecutive weeks of annual leave each year, provided the employee has a sufficient leave balance or will have accrued a sufficient leave balance by the end of the current leave year, or by the termination date of his/her appointment, whichever is sooner.

10.4 Use or Lose Leave

The NRC agrees to continue its practice of advising employees about the law and regulations pertaining to the forfeiture of "use-or-lose" annual leave. Such advice will be given annually in writing and will be published far enough in advance of the end of the leave year to permit employees in a "use-or-lose" situation to meet the statutory and regulatory guidelines for avoiding forfeiture of annual leave.

10.5 Substitution of Leave

When sickness occurs within a period of annual leave, the employee may request that the period of illness be charged as sick leave and the annual leave would be reduced accordingly. Such requests to substitute sick leave for annual leave should be made as soon as possible after return to duty, and if the sick leave exceeds 3 consecutive workdays the supervisor may require the employee to furnish either a medical certificate or other reasonably acceptable evidence. When the request for sick leave, which is to be substituted, complies with Article 11, Sick Leave, it shall be approved.

10.6 Religious Holidays

Upon advance request, the supervisor shall make every reasonable effort to grant, consistent with workload and staffing needs, an employee's request for annual leave for a workday, which occurs on a religious holiday.

10.7 Dismissal and Closure Procedures

Consistent with OPM guidance issued in December 2014, employees who are on annual leave on a day when the NRC office is closed will remain on annual leave. If the annual leave has been taken for the purposes of a medical appointment, and the appointment is cancelled, the agency may grant excused absence if the office is closed. For employees who have telework agreements in place, and wish to telework during the closure, see Article 7.

Article 11

Sick Leave

11.1 Sick Leave

Employees earn and use sick leave in accordance with applicable law and regulations. Employees are entitled to use sick leave for any of the reasons specified in federal regulation. For certain family purposes, the amount of sick leave an employee may use each leave year is limited by federal regulation. A family member is as defined under federal regulation (e.g. family member for Family Medical Leave Act is defined under 5 C.F.R. 630.1202 and family member for sick leave is defined under 5 C.F.R. 630.201). Supervisors have the authority and responsibility to determine that:

- the reasons for a sick leave request are valid and fall within federal guidelines as an authorized use of sick leave, and
- the nature of an employee's illness was such as to incapacitate him/her for his/her job if the reasons for sick leave are the employee's illness or injury.

11.2 Supervisory Notification of Unanticipated Sick Leave

Prior to the time for reporting to work, an employee is expected to notify his/her supervisor or the supervisor's designee if the employee will be absent due to a need for sick leave that was not anticipated prior to that time. If the employee is unable to provide such advance notice, the employee should normally notify the supervisor within two hours of the employee's scheduled time for reporting to work, not including any gliding time. Such notice shall be provided on the first day of his/her absence and on each subsequent day not covered by the employee's prior notification. If the employee cannot comply with the 2-hour requirement (e.g., due to the degree of illness or injury), the employee will report his/her absence as soon as possible along with an explanation for the delay. Any request for the employee to substantiate the need for sick leave will be handled in accordance with the provisions of 11.5, below.

11.3 Leave Requests

Sick leave requests for scheduled medical, dental or optical examinations, operations or treatment must be made as far in advance as practical. The employee and the supervisor will discuss alternatives if the request for sick leave would adversely affect the unit's ability to accomplish its work.

When practical, such requests will be made no less than three workdays prior to the intended absence. Requests for sick leave of more than three consecutive full workdays must be entered via the "Leave/Additional Hours Request" function in HRMS (unless the employee is also invoking FMLA). Requests for sick leave of three consecutive full workdays or less may be made orally unless the supervisor specifically requires the requests to be entered via the "Leave/Additional Hours Request" function in HRMS (not applicable when the employee is also invoking FMLA). When an employee wishes to request more sick leave than the amount that was previously requested/approved in HRMS, supervisors have the sole discretion to require that the request be entered via the "Leave/Additional Hours Request" function in HRMS or to accept the request orally. Such requests by the employee will be approved in accordance with the criteria set forth in Article 10, Annual Leave.

11.4 Release from Duty

An employee who, because of illness, is released from duty by the supervisor after reporting to the work site, will not be required to furnish a medical certificate to substantiate sick leave for the day released from duty.

11.5 Medical Documentation or Other Evidence

- 11.5.1 Supervisors may require an employee to furnish either a medical certificate or other evidence acceptable to a reasonable person to substantiate a request for approval of sick leave if the sick leave exceeds three consecutive full workdays. For example, a supervisor may at his/her discretion accept an employee's self-certification as documentation in support of the request for sick leave of any duration.
- 11.5.2 An employee shall not normally be required to submit documentation for absences of three consecutive workdays or less. However, if the Agency has reasonable grounds to question whether an employee is properly using sick leave (for example, when sick leave is frequently used or in unusual patterns or circumstances), then the Agency may inquire further into the matter and ask the employee to provide an explanation. In requesting further explanation, the Agency will notify the employee of the basis of this request. The employee may provide his/her explanation verbally or in writing; however, if the employee's explanation is not deemed acceptable, the supervisor may require that the employee provide an explanation in writing from the employee's health care provider, where appropriate (i.e., where the nature of the need for sick leave is such that a doctor's visit would be necessary) or to provide other evidence to support the usage of sick leave. Absent a reasonably acceptable explanation or evidence to support the request for sick leave, the leave request may be denied. The employee will be counseled/warned that continued, frequent use of sick leave, or use in unusual patterns or circumstances, may result in a written requirement to furnish acceptable documentation, as provided below, for each subsequent absence due to illness or incapacitation for duty, regardless of duration.
- 11.5.3 If a supervisor has reasonable grounds to believe that an employee is abusing his/her sick leave, the supervisor will give written notice that for a stated period (generally 6 months), he/she must furnish documentation from a competent medical authority for each absence from work that he/she desires to charge to sick leave. Supervisors are encouraged to precede such restrictions with a warning letter which places the employee on notice that a restriction will be imposed due to questionable use of sick leave. An allegation of sick leave abuse may not be based solely on the amount of sick leave used by the employee. At the end of the stated period, the restriction will expire unless the supervisor gives the employee written notice of renewal of the restriction due to actual or suspected continued abuse.

- 11.5.4 If medical documentation is required under this Article, it must include the following elements: (1) the actual date(s) seen by the medical provider; (2) probable duration of incapacity and/or return to work date; (3) an affirmative statement by the medical provider that the employee is unable to work during the period of incapacity; and (4) the employee's name and the medical provider's name, address, and signature. This documentation may be hand delivered by the employee or faxed by the medical provider to the supervisor.
- 11.5.5 Any request that an employee submit medical documentation beyond that required in 11.5.4, shall be provided in writing, and shall (1) state the basis for requesting additional, more specific information; (2) identify the name and address of the Agency's medical authority; and (3) specify the nature of the document required and/or the types of documentation or evidence which will satisfy the Agency's request. The Agency will provide the employee a reasonable amount of time (no less than 15 calendar days, but up to 30 calendar days, if necessary) to obtain the requested medical documentation. An employee may, at his or her option, authorize the Agency to contact his/her health care provider directly; the employee will be permitted to participate in any such communication. If the employee does not provide the requested information, the Agency will make a decision using the information available. If there is a dispute concerning the sufficiency of medical documentation, the Agency may require an employee to undergo an additional physical examination, by a competent medical authority (other than the Agency's designated medical authority) at the Agency's expense.
- 11.5.6 Any medical documentation or evidence submitted by an employee shall be considered confidential, and will only be discussed with other officials of the Agency on a need to know basis. Management will only make sick leave status and usage information available on a need to know basis.
- 11.5.7 If an employee suffers from a chronic condition which does not require frequent medical treatment, although absence from work is periodically necessary as established by medical documentation of the chronic condition, the employee will not be required to furnish documentation for each absence. Medical documentation establishing such conditions shall be updated from time-to-time upon request of the supervisor based on the circumstances of the particular case.
- 11.5.8 For a request for sick leave to care for a family member with a serious health condition, a supervisor may require an employee to provide an additional written statement from the health care provider concerning the family member's need for psychological comfort and/or physical care. The statement must include the following elements: (1) the family member requires psychological comfort and/or physical care; (2) the family member would benefit from the employee's care or presence; and (3) the employee is needed to care for the family member for a specified period of time. However, a supervisor may at his/her discretion accept an employee's self-certification as documentation in support of the request for sick leave of any duration.

Article 12

Advanced Annual and Sick Leave

12.1 Advanced Annual Leave

Annual leave which will accrue during the leave year will normally be made available to full-time and part-time employees at the beginning of the leave year for use during the year in accordance with applicable leave regulations. For part-time employees, the number of hours of annual leave advanced will be prorated according to the number of hours in the employees' regularly scheduled administrative workweek. Employees who are on temporary appointments will be advanced annual leave up to the amount of leave that will be earned before the appointment expires. Use of such leave may be denied when it is unlikely that the employee will accrue such leave during the leave year, based on the employee's nonpay status during the year, information provided by the employee, or a pending action to terminate his/her employment.

12.2 Advanced Sick Leave

- 12.2.1 At management's discretion, sick leave may be advanced to an employee for any of the reasons authorized in federal regulation and within the limits provided by regulation. The request for advanced sick leave must be denied when it fails to meet the required criteria, or it is known in advance that the employee does not intend to return to duty.

Up to 240 hours (30 days) of sick leave may be advanced to a full-time employee:

1. Who is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
2. For a serious health condition of the employee or a family member;
3. When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
4. For purposes relating to the adoption of a child; or
5. For the care of a covered servicemember with a serious injury or illness, provided the employee is exercising his or her entitlement to FMLA leave to care for a covered servicemember.

Up to 104 hours (13 days) of sick leave may be advanced to a full-time employee:

1. When he or she receives medical, dental or optical examination or treatment;

2. To provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;
3. To provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or
4. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

- 12.2.2 For a part-time employee, the maximum amount of sick leave that may be advanced must be prorated according to the number of hours in the employee's regularly scheduled administrative workweek.
- 12.2.3 The maximum amount of advanced sick leave that a full-time employee may have to his or her credit at any one time is 240 hours. This amount is prorated for a part-time employee according to the number of hours in the employee's regularly scheduled administrative workweek.
- 12.2.4 Employees must request advanced sick leave in writing. A supervisor may require an employee to submit a medical certificate or other appropriate documentation justifying the need for the advanced leave. Any such request will be done in accordance with the provisions set forth in Article 11, Sick Leave. Sick leave may be advanced solely at the discretion of management. Decisions will not be arbitrary and capricious. In addition to ensuring that the reason and amount are authorized by regulation, management should consider such matters as, but not limited to, the expectation of the return to duty, the need for the employee's services, the employee's past leave record, the amount of annual leave available to the employee, and the benefits to the agency of retaining the employee.

Article 13

Leave Without Pay

13.1 Agency Approval

Leave without pay must be requested in advance whenever possible. Requests for more than three days must be made in writing. However, the authorization of leave without pay is a matter of administrative discretion and employees, with a few exceptions, have no entitlement to leave without pay as a matter of right. If the employee's request is denied, he or she will be notified before the Agency charges the employee as being Absent Without Leave (AWOL).

13.2 Family Leave

An employee may be entitled to leave without pay for family-related reasons in accordance with the provisions of Article 15, Family Leave.

13.3 Relationship to Annual and Sick Leave

An employee may request, and the Agency will consider granting, leave without pay even though his or her annual or sick leave balance has not been exhausted. Upon the request of an employee, an approved absence which would otherwise be charged to sick leave or annual leave may be converted to leave without pay at the discretion of NRC in accordance with applicable rules and regulations.

13.4 Extended Leave Without Pay

Each request for extended leave without pay that is not an entitlement, including a request to engage in full or part-time study, will be examined closely to assure that the value to the government or the needs of the employee are sufficient to offset costs and administrative inconveniences such as encumbrance of a position. There should be reasonable expectation that the employee will return at the end of the approved period. In addition, it should be apparent that at least one of the following benefits would result:

- 13.4.1. increased knowledge, skills or ability to perform the job;
- 13.4.2. protection or improvement of employee's health; or
- 13.4.3. retention of the employee.

13.5 Duration of Leave Without Pay

Except when required by law or regulation, leave without pay will not be authorized initially for any period in excess of 52 weeks. Requests for extensions will be approved/disapproved based on the merits of each individual case.

Article 14

Excused Absence

14.1 Public Elections

When the public election polls are not open at least 3 hours either before or after an employee's regular hours of work, the employee will be authorized an amount of excused absence which will permit him or her to report for work up to 3 hours after the polls open or leave work up to 3 hours before the polls close, whichever requires the lesser amount of time off.

14.2 Office Closure

The NRC agrees that whenever it becomes necessary to close any office because of inclement weather or any other emergency conditions and to grant excused absence to those who are excused because of the emergency, the Agency will clearly indicate this on its public website. Reasonable efforts will also be made to inform all employees by private or public media. In the absence of any specific notice on the NRC website, employees may follow the policy identified on the OPM website. If the Executive Director for Operations or a Regional Administrator closes an office or building, the NRC will grant the appropriate amount of excused absence for employees, except essential personnel when necessary, in that office or building, in accordance with existing Agency policy.

14.3 Excused Absences for Weather or Other Commuting Delays

- 14.3.1 If inclement weather, emergency conditions, or unanticipated short-term commuting delays (e.g., unanticipated interruption of public transportation) within the commuting area of the office or duty station (including a temporary duty station), which has a general adverse effect upon commuting, prevents an employee from getting to work on time when the office or duty station is not closed, the employee will be excused for absences of up to 2 hours if the employee made reasonable continuing efforts to reach the office or duty station by the available means of transportation.
- 14.3.2 If the employee will be more than 2 hours late, the employee must call the office or duty station and notify his/her supervisor or designee of the efforts made and/or of the efforts which will be made to get to work. Requests for excused absences of up to and including 2 hours will be submitted to the employee's supervisor. Requests for excused absences of more than 2 hours will be submitted to the Director, Office of Human Resources, or the appropriate Regional Administrator.
- 14.3.3 Employees will not be provided excused absence under this section for any part of a day on which the employee does not report for duty at all during that day. If the employee is unable to arrive at their office or duty station, they may request appropriate leave for that day.
- 14.3.4 This section does not preclude Office Directors, Regional Administrators, or other Agency officials, from otherwise exercising their authority to grant excused absence pursuant to applicable Agency policy.

14.4 Blood Donation

Absent an interference with Agency work, an employee will be excused for absence in order to donate blood for a maximum of 4 hours without charge to leave. This period of time should cover the time spent in donating the blood and the period of recuperation which follows the donation, and may be extended as the situation warrants.

14.5 Bone Marrow or Organ Donation

An employee is entitled to excused absence each calendar year of up to seven days to serve as a bone marrow donor and thirty days to serve as an organ donor. The excused absence will not affect pay, leave to which otherwise entitled, credit for time or service, or a performance rating. The length of absence for such purposes will vary depending upon the medical circumstances of each case. Administratively acceptable documentation, such as certification from the employee or medical certification from the doctor or hospital, is required.

14.6 Occasional Tardiness

Occasional tardiness of one hour or less beyond the employee's normal starting time or beyond the time that the employee would normally report back from his/her lunch break or period of approved absence may be excused by the supervisor based upon acceptable circumstances. When tardiness is not excused, the supervisor shall permit the employee to take appropriate leave and/or allow the employee, if practicable, to make up the period of tardiness by working later on the workday he/she was tardy. The period of tardiness made up by working later in the workday can be in any increment, not necessarily limited to 15-minute increments, since time and attendance data entry is not required.

This section does not apply to an employee to whom a leave requirements letter has been issued. This section does not waive management's right to charge AWOL and/or take disciplinary action regarding tardiness when an employee's timely presence is required due to a regular or specific assignment, duty, or responsibility or their tardiness is considered beyond occasional. If the employee's request to make up a period of tardiness is denied, he or she will be notified before the Agency charges the employee as being Absent Without Leave (AWOL).

14.7 Professional Activities

An employee, engaged in NRC activities where a professional or technical certification would be in the interest of NRC, may be authorized by the supervisor when permitted by the individual's workload, an excused absence to take the examination. Absences will be limited to the actual time required, but not to exceed a total of 3 workdays. An employee may also be granted an excused absence to attend to matters which are prerequisites to receiving such a professional or technical certification, e.g., swearing in ceremonies or personal interviews before a professional licensing committee. Examples of such examinations include, but are not limited to, the CPA examination, professional engineer examination, and the bar examination.

Article 15

Family Leave

15.1 Leave Entitlement Under the Family and Medical Leave Act (FMLA).

The Family and Medical Leave Act (FMLA) entitles covered full-time or part-time employees to approved leave without pay for specified family and medical purposes. Generally, FMLA provides covered employees a total of 12 administrative workweeks of unpaid leave during any 12-month period for certain family and medical needs. However, the amounts differ for certain military purposes.

- 15.1.1 An employee with at least 12 months of qualified Federal service is entitled to take:

Up to 12 administrative workweeks of unpaid leave during a 12-month period for one or more of the following reasons:

1. The birth of a child of the employee and the care of such child
2. The placement of a child with the employee for adoption or foster care
3. The care of a spouse, son, daughter, or parent of the employee who has a serious health condition
4. A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position
5. Any qualifying exigency arising out of the fact that the employee's spouse, or a son, daughter, or parent is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. Regulations list several categories of qualifying exigencies and impose shorter maximum time limits on some of them.

Up to 26 administrative workweeks of unpaid leave during a single 12-month period to care for a covered member of the Armed Forces with a serious injury or illness. The employee (1) must be the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered servicemember with a serious injury or illness and (2) provide care for such servicemember. The serious illness or injury must have been incurred by the covered servicemember in the line of duty while on active duty in the Armed Forces.

- 15.1.2 An employee interested in taking leave under FMLA is encouraged to consult U.S. Office of Personnel Management regulations and guidance, NRC guidance, and/or the servicing human resources specialist to ensure that he/she obtains detailed information about the approved purposes for FMLA, how to make and document requests, options for substituting paid leave for FMLA, and definitions. Among other terms, FMLA regulations at 5 CFR 630 Subpart L define terms such as serious health condition, health care provider, and family member. For example, the definition of son or daughter for FMLA purposes other than care of a covered servicemember specifies a “son or daughter including a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in loco parentis (that is, who has day-to-day responsibility for the care and provides financial support of a child) if the child is:
- Under 18 years of age; or
 - 18 years of age or older and incapable of self-care because of a mental or physical disability.”
- 15.1.3 Consistent with current law and regulations governing the granting and use of annual or sick leave, an employee may, at his or her option, substitute paid leave (annual or sick) for unpaid leave under FMLA.
- 15.1.4 Entitlement to leave under FMLA shall be administered in accordance with applicable law, government-wide regulations, and NRC policy.

15.2 Requests for Leave Under FMLA

- 15.2.1 An employee is required to submit a written request indicating that the employee is invoking FMLA. The request will provide the reasons and expected dates along with any required documentation. If the employee intends to substitute paid leave, including advanced leave, it should be requested at this time. Employee requests to use family and medical leave shall be granted or denied promptly. An employee may initially make an oral request if circumstances prevent a written request. The employee or representative will follow up with a written request as soon as practicable.
- 15.2.2 Requests must be submitted within the timeframes provided by regulation. Among other provisions, regulations require that the employee advise his/her supervisor not less than 30 calendar days prior to the date the leave is to begin when the need for family and medical leave is foreseeable, based on an expected birth, placement for adoption or foster care, or planned medical treatment for the employee or a family member. When the leave must be taken beginning within thirty calendar days, notice is required as soon as practicable.

- 15.2.3 The employee will be notified as soon as possible as to what documentation will be required for the family and medical leave request. Rules and procedures concerning requests for medical documentation are set forth in Article 11, Section 11.5. Employees are encouraged to use forms developed by the Department of Labor to document FMLA leave requests.

15.3 Maternity Leave

For leave purposes, pregnancy shall be treated like any other medically certified temporary disability. Maternity leave may be a combination of as many as three separate kinds of leave: sick leave, annual leave, and LWOP. Leave for maternity purposes will be granted or denied by the supervisor based on the request of the employee, advice of her physician, and in accordance with applicable law, policy, and regulation for such leave. Absent an emergency situation, she must request any such leave from her supervisor prior to her absence for maternity reasons. Requests for maternity leave pursuant to FMLA should be made in accordance with Section 15.2 of this Article.

NRC is committed to helping employees balance their work and family responsibilities. Subject to workload, mission, or staffing requirements, NRC will ordinarily grant requests for up to six (6) months of maternity leave, which would typically include the employee's three (3) month entitlement to maternity leave pursuant to FMLA. Employees and supervisors are encouraged to discuss mutually acceptable options for addressing maternity and paternity interests (such as intermittent leave, telework, part-time or job sharing arrangements), particularly where any portion of an employee's leave request cannot be granted.

If any portion of a request for maternity leave is denied, the supervisor will promptly provide an explanation of the reason(s) for the denial of the leave request (no later than 10 workdays of the denial, absent extenuating circumstances). To the extent permitted by law and regulation, the employee, at her discretion, may use earned sick leave, annual leave, LWOP, (including leave entitlement under FMLA as set forth in Section 15.1) or any combination of these for maternity leave purposes. Upon request, employees who meet the criteria for inclusion in the Voluntary Leave Transfer Program will be approved.

15.4 Ability to Work Before or After Delivery

The NRC may request a medical certificate from the employee if there is a question as to the employee's physical fitness to continue work before delivery or to return to work after delivery. In accordance with 5 C.F.R. 339, Medical Qualification Determinations, or in accordance with applicable law and regulation.

Where it is in the best interest of the government, the NRC agrees to pay the cost of the employee's physician for a medical certificate authorizing continued work or return to work and prescribing any precautionary measures that should be taken by NRC.

15.5 Pregnancy Accommodations

If a pregnant employee requests an accommodation, NRC will make reasonable efforts to accommodate the employee's health needs. Employees and supervisors are encouraged to engage in an interactive dialogue about options for accommodation (such as changes to duties, work schedule, telework, etc.)

NRC may request medical documentation or other evidence to aid in its determination as to whether or not an accommodation is appropriate. However, a supervisor may at his/her discretion accept self-certification as documentation in support of a requested accommodation.

15.6 Paternity or Same-Sex Spouse Leave

In accordance with law, a male employee or same-sex spouse is entitled to leave without pay (LWOP) under FMLA if needed to care for the mother during pregnancy, childbirth, and recovery, or to care for a newborn. An employee may substitute paid leave for LWOP to the extent consistent with the law and regulations for using annual and sick leave. For example, an employee is entitled to use sick leave to care for the mother while incapacitated, take a child to medical appointments or care for an ill child, but an employee may not use sick leave to care for a well newborn. Requests for leave pursuant to FMLA should be made in accordance with Section 15.2 of this Article.

NRC is committed to helping employees balance their work and family responsibilities. Subject to workload, mission, or staffing requirements, NRC will ordinarily grant requests for up to six (6) months of paternity or same-sex spouse leave, which would typically include the employee's three (3) month entitlement to leave pursuant to FMLA. Employees and supervisors are encouraged to discuss mutually acceptable options for addressing maternity and paternity interests (such as intermittent leave, telework, part-time or job sharing arrangements), particularly where any portion of an employee's leave request cannot be granted. If any portion of a request for paternity or same-sex spouse leave is denied, the supervisor will promptly provide an explanation of the reason(s) for the denial of the leave request (no later than 10 workdays of the denial, absent extenuating circumstances).

Article 16

Other Leave Provisions

16.1 Military Leave

Military leave will be granted in accordance with applicable statutes, Office of Personnel Management (OPM) regulations and Comptroller General decisions.

16.2 Court Leave

All court leave will be granted in accordance with applicable statutes, OPM regulations and Comptroller General decisions.

16.3 Leave Use Increments

All annual leave, sick leave, leave without pay, and restored leave will be charged in increments of no greater than 15 minutes.

Article 17

Merit Selection Procedures

17.1 Purpose

It is the purpose of this Article to provide a fair and equitable process for filling positions through competitive procedures based upon merit, and to ensure the selection of the best qualified candidates for vacant positions. The parties agree that the selection and advancement of employees should be determined solely on the basis of relative ability, knowledge, skills and worker characteristics after fair and open competition which assures that all employees receive equal opportunity. Actions taken under this Article shall be made without regard to race, color, sex, national origin, marital status, age, religion, sexual orientation, labor organization affiliation or non-affiliation, or non-disqualifying disability and shall be based solely on job-related criteria. The Parties agree that the Agency has the right to fill vacant positions by recruiting eligible candidates through the announcement of such vacancies within the Agency or by recruiting from any appropriate source. Consistent with the provisions of this Article, bargaining unit employees will be given the opportunity to apply for vacant positions and given simultaneous consideration with any "outside" applicant(s).

17.2 Coverage

Except as provided under Section 17.3 below, the competitive procedures set forth in this Article apply to all promotions and other placement actions to bargaining unit positions, including:

- 17.2.1 Time-limited promotions or details for more than 90 calendar days to higher graded positions, and details for more than 90 calendar days to a higher grade position or to a position with higher promotion potential than the position an employee currently holds or previously held on a permanent basis (prior service during the preceding 12 months under noncompetitive temporary promotions and noncompetitive details to higher graded positions counts toward the 90 days). A temporary promotion may be made permanent without further competition provided the temporary promotion was originally made under competitive procedures and the fact that it might lead to a permanent promotion was included in the original vacancy announcement.
- 17.2.2 Selection for training which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for a promotion.
- 17.2.3 Promotion, reassignment, transfer, reinstatement, demotion or detail to a position with more promotion potential than the highest potential of a position currently or previously held on a permanent basis (except as permitted by reduction-in-force regulations).

17.3 Exclusions

This Article will not apply to non-bargaining unit positions. This Article will also not apply to the following:

- 17.3.1 A promotion resulting from the upgrading of a position without significant change in the duties or responsibilities due to issuance of a new classification standard or due to the correction of an initial classification error;
- 17.3.2 A position change permitted by reduction-in-force procedures;
- 17.3.3 A promotion without current competition when at an earlier stage an employee was selected from an NRC register or under competitive promotion procedures for entry into a non-competitive career promotion position structured to allow the incumbent to rise to the full performance level identified for the position. This employee is assigned duties that result in grade-building experience and is promoted as he or she demonstrates the ability to perform at the next higher level.
- 17.3.4 A promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities; in the event a promotion is granted under this exclusion provision, the NRC shall document the duties and responsibilities per Article 21, Position Descriptions. A noncompetitive promotion may be made if all the following conditions are met:
 - 17.3.4.1 the employee continues to perform the same basic functions;
 - 17.3.4.2 the major duties of the position are absorbed into the new position;
 - 17.3.4.3 the new position has no known further promotion potential;
 - 17.3.4.4 no other positions within the organizational unit are adversely affected;
 - 17.3.4.5 the position's higher grade is not based solely on the addition of supervisory duties to a non-supervisory position; and
 - 17.3.4.6 the employee has been performing the higher level duties for a sufficient period of time to determine that the responsibilities are ongoing and permanent.
- 17.3.5 A temporary promotion, or detail (including a rotational assignment) of 90 calendar days or less to a higher grade position or a position with higher promotion potential than the highest potential of a position an employee currently holds or previously held on a permanent basis. Prior service during the preceding 12 months under noncompetitive time-limited promotions and noncompetitive details to higher graded positions counts toward the 90-day total.
- 17.3.6 In accordance with law and regulation, promotion to a grade previously held on a permanent basis from which an employee was separated or demoted for other than performance or conduct reasons.

- 17.3.7 Promotion, reassignment, demotion, transfer, reinstatement, or detail of a bargaining unit employee to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis and did not lose because of performance or conduct reasons.
- 17.3.8 Consideration of a candidate not given proper consideration in a competitive promotion action, in accordance with Section 17.21, below (Priority Consideration).
- 17.3.9 In accordance with law and government-wide regulation, appointment or conversion in a special Federally authorized program; e.g., NRC Student Career Experience Program, Presidential Management Intern Program, Veterans' Appointment Program, or special program for the appointment of the mentally challenged, those with psychiatric disabilities or severely physically disabled individuals.

17.4 Employee Consideration

- 17.4.1 The area of consideration is the area in which an active search of candidates is made. The minimum area of consideration is that area in which it can be reasonably expected that a sufficient number of qualified employees will be located. When bargaining unit positions are filled under the provisions of this Article, the minimum area of consideration is normally Agency-wide; however, in unusual circumstances caused by factors outside the agency's control which significantly impact budget or staffing levels, the area of consideration may be restricted to an Office if it is determined that a sufficient number of qualified applicants will be found within the area of consideration. The Agency will notify the Union prior to the announcement of any vacancy where the area of consideration is less than Agency-wide.
- 17.4.2 When filling a bargaining unit position (other than through one of the means covered by the exclusions identified in 17.3, above), NRC employees (both bargaining unit and non- bargaining unit) within the area of consideration may apply and receive simultaneous consideration with any "outside" applicant(s). Those who apply will be considered if otherwise eligible (e.g., the application is complete and is received by the closing date, the applicant has status if the advertised position is permanent and open only to status candidates, etc.) NRC employees will be processed according to the provisions of Article 17.

17.5 Vacancy Announcement Posting

Vacancy announcements will be posted for at least 16 calendar days; once posted, the closing date will not be changed to an earlier date. Applications will not be accepted after the closing date.

An employee who wishes to relocate from one geographic area to another may contact the Office of Human Resources to express such interest. The Office of Human Resources will consider the employee's request, consistent with agency needs. Relocation costs will not be provided to the employee if the relocation is solely for the benefit of the employee.

17.6 Vacancy Announcement Content

- 17.6.1 All bargaining unit employees will be notified where announcements for competitive merit promotions can be accessed. The notification will provide instructions on how to obtain the announcement via the internet. The vacancy announcement will contain the following information, to the extent that such information is available:
- 17.6.1.1 announcement number;
 - 17.6.1.2 opening and closing dates (if an “open until filled” announcement, this shall be indicated);
 - 17.6.1.3 the title, occupational series, grade, organization and location of the position;
 - 17.6.1.4 promotion potential for the position (i.e., career ladder);
 - 17.6.1.5 hourly/annual salary range for WG/GG positions;
 - 17.6.1.6 area of consideration;
 - 17.6.1.7 a brief description of the duties and responsibilities of the position and an indication where additional information may be obtained;
 - 17.6.1.8 whether the position is a full or part-time position;
 - 17.6.1.9 minimum qualifications necessary, including selective placement factors (if any);
 - 17.6.1.10 significant working conditions;
 - 17.6.1.11 procedures for applying and where to submit applications;
 - 17.6.1.12 statement of equal employment opportunity;
 - 17.6.1.13 number of positions expected to be filled (in numeral form); (a change in the number of positions available will not necessitate an amendment to the announcement; however, all candidates on the selection certificate will be notified of any changes in the number of positions expected to be filled prior to the referral of the list to the selecting official);
 - 17.6.1.14 the rating and quality ranking factors for the position (if any) and, if certain rating or ranking factors are more important than others, they will be so identified, and assigned a multiple weight;

- 17.6.1.15 bargaining unit status;
 - 17.6.1.16 name of immediate supervisor;
 - 17.6.1.17 whether relocation expenses are authorized; and
 - 17.6.1.18 for multiple grade vacancies, a statement that applicants should specify the grade level(s) for which they wish to be considered.
- 17.6.2 “Open until filled” announcements will be used for hard to fill positions, multiple vacancies, or positions for which there is an ongoing need to seek applicants. The status of “open until filled” vacancies will be provided in the Weekly Announcements, distributed to all employees.

17.7 Application Submissions

Any employee who wishes to be considered for a vacancy that has been announced must electronically apply for that vacancy by using USA Jobs. The application must include:

- 17.7.1 a resume;
- 17.7.2 a response to the vacancy questions addressing the applicant’s experience and qualifications relative to each of the vacancy questions (i.e., rating factors) listed in the announcement for the position;
- 17.7.3 four (4) copies of the most recent available rating of record;
- 17.7.4 for positions advertised at multiple grade levels, employees may request consideration at any or all of the grade levels for which they are qualified; failure to specify would result in consideration only at the highest grade qualified; and
- 17.7.5 any other information required by the vacancy announcement.
- 17.7.6 An employee may reference additional relevant information as evidence of their qualifications for a position in the narrative statement prepared for each vacancy question (rating factor) or in the resume portion of the application. If the Agency has not issued an official rating of record, the application is complete without one. An incomplete application will not be considered. Since rating panels and officials are prohibited from considering information about any applicant which is not included in the application package, the parties agree that it is in an applicant’s interest to prepare a well-documented application.
- 17.7.7 The employee must apply by the closing date stated in the vacancy announcement.

17.8 Minimum Qualifications

- 17.8.1 HR or Regional Personnel Officers (RPO), or subject matter experts, as appropriate, will determine whether candidates meet the minimum qualification requirements, including any selective placement factors, which become part of the minimum qualifications. The NRC will apply minimum qualifications requirements in a fair and equitable manner. When an employee does not meet the minimum qualification requirements, HR/RPO will notify and give the reason to the employee prior to the time that the rating process is completed. HR/RPO will also be responsible for giving advice and assistance to the rating official or panel and to the selecting official to assure compliance with the procedures set forth in this Article.

17.9 Rating

- 17.9.1 The NRC shall use a system to rate the candidates when there are four or more qualified applicants for the position. A rating panel consisting of at least 2 members will be used for all promotion actions involving more than 10 applicants. For promotion actions involving 4 – 10 applicants, a single rating official may be used. A representative of OHR will be available to provide advice and assistance to the rating official or the rating panel. The rating official or at least one panel member must have knowledge of the position being filled. The rating official or all panel members will hold positions at or above the full performance level of the vacant position.
- 17.9.2 The rating factors (referred to as “vacancy questions” in USA Jobs) are the job-related knowledges, skills and abilities and worker characteristics which are the criteria against which candidates are evaluated in order to make quality distinctions among qualified candidates. The rating factors are used to predict the probable effectiveness of the candidates’ future performance in the vacant position.
- 17.9.3 In developing rating factors, the specific knowledge, skills, and abilities shall be identified from position descriptions, the supervisor’s knowledge of the job, subject matter experts (including current incumbents of the position) and other relevant sources, such as the OPM Qualification Standards Handbook and Management Directive 10.24 (formerly NRC 4130). To the extent possible, each rating factor will be described in terms of observable and measurable criteria. Additionally, the NRC agrees to identify any rating factor changes pursuant to a reposting (R) of a vacancy announcement.
- 17.9.4 As an alternative to traditional rating factors, NRC may develop vacancy questions that allow for automated rating. The Agency will provide notice and the opportunity to bargain in accordance with Article 42, Mid-term Bargaining, prior to implementing any automated rating system.
- 17.9.5 Evaluations to determine the “best qualified” applicants will be based solely on the evaluation criteria established by the Agency for competitive merit promotion, and will be based on the application materials provided by the applicants.

17.10 Crediting Plans

- 17.10.1 When rating occurs, NRC will use tailored or generic crediting plans for all vacancies. The crediting plan is used to assess the candidate's qualifications and distinguish between rating factor grades/levels (A = most qualified, B = highly qualified, and C = qualified). The crediting plan shall reflect how the knowledge, skills, and abilities of applicants are evaluated in relation to the rating factors that are identified for the position.
- 17.10.2 The rating panel may recommend to the Human Resources Specialist that the crediting plan be adjusted for reevaluation of the candidates if the panel deems it appropriate.
- 17.10.3 Employees may request to view (but not retain a copy, or duplicate) the crediting plan after the selection process is completed. Such a request must be made to the appropriate Human Resources Specialist.

17.11 Consideration of Training and Awards

In arriving at letter grades for various rating factors, rating officials and rating panels shall consider any relevant training and awards granted to individual applicants, provided this information is fully documented in the package submitted by the applicant for the position.

17.12 Rating Process and Scores

In the rating process, NRC will evaluate all information provided as part of the application from each qualified employee applicant against each rating factor by applying the following grades:

- "A," or "Most Qualified" - Information shows that the candidate's qualifications substantially exceed the requirements for the relevant rating factor. Such a grade indicates the candidate, with respect to that factor, has the potential to perform in an outstanding manner or to be exceptionally effective in the position.
- "B," or "Highly Qualified" - Information shows that the candidate's qualifications exceed the requirements for the relevant rating factor but are not outstanding. Such a grade indicates the candidate, with respect to that factor, will be very effective in the position.
- "C," or "Qualified" - Information shows that the candidate's qualifications meet, but do not exceed, the requirements for the relevant factor. Such a grade indicates the candidate, with respect to that factor, will be reasonably effective in the position.

The rating official or rating panel will convert the assigned grades to the following system of numbers which shall be consistently applied to the grades of all candidates. If any rating factors were identified as more important than others, a multiplier will be assigned to the weighted factors and applied on a consistent basis to the grades of all candidates. Grades A, B and C will be converted to numbers 3, 2, and 1 respectively. Weighted factors may be assigned multipliers of 2 or more. Total grade scores will be computed by the use of such numbers and multipliers. Each candidate's total grade score will be divided by the total number of factors plus any additional multipliers. Each rating panel member's score for each factor will be averaged to determine the candidate's score for that factor, which will, in turn, determine each candidate's total grade score. Category ratings will be determined by converting the total grade score back

to a Grade of A, B or C, with scores of 2.5 – 3.0 = A, 1.5 – 2.4 = B, and 1.0 – 1.4 = C. A meeting of rating panel members is not required to determine the total grade score.

Evaluations and ratings to determine the applicants to be referred on the selection certificate will be based solely on the specified evaluation criteria and the application materials submitted by the applicants.

17.13 Interviews During the Rating Process

If, after completing the above rating process, the rating panel or official wishes to interview candidates, all candidates having a pre-interview score of no more than 1.0 below the top candidate must be interviewed. If interviews are conducted, all candidates who are interviewed should be asked similar questions. This does not preclude the rating panel or rating officials from asking questions that are unique to the individual's background and qualifications. If any additional qualified applicants are to be interviewed, then all qualified applicants will be given the opportunity to be interviewed. If, as a result of such interviews, applicant ratings are changed, a written record will be made of all such changes and will become part of the individual's application package.

17.14 Certification Record (CERT)

At the conclusion of the rating process, the Human Resources Specialist will prepare a "Candidate Evaluation Certification and Selection Record" and certify the authenticity of the ratings. This certification will attest that the rating official or rating panel had complied with the procedures set forth in this Article. The names of rating panel members will be identified on the Candidate Evaluation Certification and Selection Record.

The Human Resources Specialist will also determine how many candidates are to be placed on the selection certificate/best qualified list in accordance with 17.15 and who those candidates are.

Upon completion of such review, the record will be sent to the selecting official along with the application package submitted by each best qualified candidate. The selecting official shall not receive the numerical ratings for any specific candidate on the best qualified list. However, the highest and the lowest scores (reflecting the range of scores on the best qualified list) will be provided to the selecting official.

17.15 Selection Certificate/Best Qualified List (BQL)

- 17.15.1 At the conclusion of the rating process, applicants (bargaining unit and non-bargaining unit) who are within 0.4 of the top rated candidate, not to exceed the top five in number, shall comprise the best qualified list for any vacancy. However, if two or more applicants are tied for a final place on the best qualified list, all applicants having the same score shall have their names placed on the list.
- 17.15.2 When more than one position is expected to be filled, one additional name shall be added to the best qualified list subject to the requirements of 17.6.1.13, for each additional vacancy. The size of the best qualified list will be based on the number of positions expected to be filled at the conclusion of the rating process. However, if two or more applicants are tied for a final place on the best qualified list, all applicants having the same score shall have their names placed on the list.

- 17.15.3 The applicants' names shall be given to the selecting official in alphabetical order. The application materials of the referred applicants will be sent with the selection certificate. If the posting was for more than one grade, separate lists will be issued for each grade on the selection certificate. If there are three or fewer competitive eligible candidates for a vacancy at a particular advertised grade level, all of those candidates will be referred to the selecting official in alphabetical order. In addition, qualified non-competitive eligibles will be referred to the selecting official in alphabetical order on a non-competitive referral list or as a separate list on a consolidated selection certificate.
- 17.15.3.1 Eligible employee candidates referred to the selecting official will be given simultaneous consideration with eligible outside candidates. The names of eligible outside candidates will be referred in accordance with the provisions of Management Directive 10.15 (approved 1/22/96) and related Yellow Announcements. Except as required by law, any outside candidates referred to the selecting official must be at least as well qualified (in terms of qualifications category rating) as the bargaining unit applicants on the best qualified list; however, when outside candidates are not rated, eligible employee candidates will be given first consideration by the selecting official prior to receiving and considering the list of unrated eligible outside candidates. When requesting the list of unrated eligible outside candidates, the selecting official will describe, in writing, the consideration given to eligible employee candidates. An alleged failure to provide first consideration to an employee under this provision will be subject to the negotiated grievance procedure under Article 46.
- 17.15.3.2 Any list of eligible employee or outside candidates provided to the selecting official will include documentation of the date provided.
- 17.15.4 This best-qualified list may be used for a period of 90 days from the date certified for additional identical positions within the same office or region.
- 17.15.5 If the Certification Record (CERT) is re-used within a 90-day period without reposting for the same position, additional names may be added to the best qualified list in the event of separations, declinations, or selections which change the number of available BQL applicants. The re-used CERT will be re-signed in the event of any changes to the BQL applicants on the CERT. The BQL will be reestablished per this section.
- 17.15.6 If the selecting official believes that a reposting is necessary due to an insufficient number of candidates referred, the selecting official must review the application package(s) of those candidates referred before ordering the reposting.

17.16 Interviews During the Selection Process

If a selecting official wishes to conduct interviews, all employees on the selection certificate must be interviewed by that selecting official. If interviews are conducted, all candidates who are interviewed should be asked similar questions. This does not preclude the selecting official from asking questions that are unique to the individual's background and qualifications.

17.17 Effective Date of Promotion

If practicable, an employee who has been selected for a competitive promotion will have his/her promotion become effective no later than one complete pay period following his/her selection or the date when the position is vacated if the selection was made in advance of the position being available. Promotions involving a change of duty station will be made effective on the date the employee station who are selected for a permanent position at that location will be given 30 days to accept the permanent position, and will be informed of the impact of such acceptance on their reimbursement for temporary travel expenses as well as any impact of delaying acceptance.

An employee selected for a competitive reassignment or a voluntary change to lower grade with promotion potential that does not exceed the selectee's current position will normally have the action effective a minimum of two full pay periods following his/her selection. A release may be delayed based on workload consideration if agreed to between the employing and acquiring organizations.

17.18 Notification of Unsuccessful Candidates

Applicants who are rated not eligible for the position or who are eligible but not referred on the selection certificate(s) will be notified as such within thirty calendar days from the date the certificate(s) was sent to the selecting official. Employees identified by the NRC as not qualified for a vacancy are entitled to seek an explanation of why they are not qualified and to seek career guidance from HR. Employees may request feedback from rating officials/rating panel chair as to their ratings under a specific vacancy announcement. Such requests should be submitted to the appropriate personnel representative.

Applicants referred on the selection certificate(s) but not selected will be notified within thirty calendar days of the selection being accepted. The notice will indicate that the applicant was in the group from which the selection was made and state the name of the person selected for the position.

17.19 Retroactive Pay

Employees are entitled to retroactive pay in connection with improper personnel actions where specifically provided for in law and regulations.

17.20 Union Access to Vacancy/Promotion File

Upon completion of the selection process, a copy of the complete promotional file will be provided, subject to the requirements of law, to the appropriate Union representative when requested, pursuant to Article 45, Personnel Records and Access to Information, as part of an investigation into or a grievance concerning the selection process of that particular vacancy.

17.21 Priority Consideration

- 17.21.1 Priority consideration will be given one time to an employee to redress any error in the rating process which resulted in that employee's name being improperly excluded from the selection certificate for consideration by the selecting official where such consideration occurred. Priority consideration may only be granted to employees who seek or accept such redress under the grievance procedure contained in this Agreement. An employee granted priority consideration may indicate positions for which they qualify for which he or she would agree to exercise his/her priority consideration right.
- 17.21.2 Priority consideration means that the employee whose name was erroneously omitted from the selection certificate will have the employee's name placed alone on a promotion certificate for the next appropriate vacancy and submitted to the selecting official prior to posting the vacancy. An appropriate vacancy is one at the same grade level, in the same commuting area of original position, having comparable promotion opportunity as the position for which the employee did not receive proper consideration, a position for which the employee is qualified, with the same bargaining unit status, and for which the employee agrees to exercise his or her priority consideration right. The employee may, at the employee's option, be considered for a comparable position of lower promotion potential.
- 17.21.3 Priority consideration holders shall be granted a maximum of 5 calendar days, beginning with the date of notification, to exercise their priority consideration right. Extensions to this 5 day period may be granted, as appropriate. During these 5 days the employee may request a copy of the position description and rating factors (if available). Further, employees may seek information about the position from the selecting official before electing to use their priority consideration.

If a priority consideration holder exercises his/her priority consideration right, the selecting official will be required to interview the priority consideration holder unless extenuating circumstances prevent such an interview. If the employee who has been given priority consideration is not selected, the selecting official will prepare a written justification for the employee.

- 17.21.4 In the event that more than one employee is entitled to priority consideration for the same vacancy, the employee whose priority consideration rights are senior (the employee who first received priority consideration rights) will be offered priority consideration first. If the senior priority consideration holder declines to exercise his/her priority consideration rights for a given vacancy, or is not selected for the position, priority consideration will then be offered to the next senior priority consideration holder eligible for the position. In the event that two employees receive priority consideration rights on the same date, the issue of seniority between them will be determined by their respective corrected (final) rating scores with the employee scoring highest being considered senior. In the event that two employees acquire priority consideration rights on the same date with identical rating scores, the seniority issue shall be decided on the basis of NRC service.
- 17.21.5 The agency will furnish NTEU, upon request, a list of bargaining unit priority consideration holders and the grade and type of position(s) for which priority consideration has been granted.

Article 18

Noncompetitive Promotions

18.1 Definition

- 18.1.1 A noncompetitive career promotion position is defined as a position which may be filled at a grade level below the full performance grade level and which is structured to allow the incumbent to rise to the full performance grade level for the position. The full performance grade level of any position (journeyman level) is a classification decision to be made by the NRC alone. Initial appointment to such a position must be based on competitive selection procedures and the full performance level must be clearly identified and publicized at the time of competition (normally in the vacancy announcement). Subsequent promotions to the next appropriate higher grade level (in the respective occupation series) up to and including the full performance grade level are excepted from competition. A noncompetitive career promotion is not automatic; no employee is guaranteed such a noncompetitive career promotion. All noncompetitive career promotions will be processed in a fair and equitable manner.
- 18.1.2 An employee may also receive a noncompetitive promotion through an "accretion of duties. The Agency will provide the Union notice within 30 calendar days when any employee has received a noncompetitive promotion based on an accretion of duties.

18.2 Basis

Noncompetitive career promotion determinations shall be based on the following factors:

- 18.2.1 whether, based upon the employee's most recent rating of record and the employee's performance since the date of the appraisal, the employee has demonstrated the ability to perform at the next higher grade level;
- 18.2.2 whether there is sufficient work to be performed at the next higher grade level;
- 18.2.3 whether the employee meets the qualifications for the position at the next higher grade;
- 18.2.4 whether funds are available to pay the additional personnel expenses incurred as a result of such a promotion; and
- 18.2.5 completion of the NRC one-year time-in-grade requirement.

18.3 Determination Not To Promote

A written explanation of any determination not to promote shall be given to the employee within 10 workdays of the date such determination is made unless the employee requests that such

determination not be made in writing. When the employee has not demonstrated the ability to perform at the next higher grade level, the employee may request a counseling discussion as to how to demonstrate such ability. A determination not to promote shall not be referred to in any subsequent appraisal of the employee's performance. Incumbents who are not promoted will be reconsidered for promotion at 3 month intervals if they occupy GG-2 through GG-5 positions and at 6 months intervals if they occupy GG-6 through GG-14 positions.

If the Agency believes that an employee's misconduct which resulted in a suspension within the year preceding the eligibility date of a career ladder promotion affects his or her qualifications for the position at the next higher grade level, the notice of proposed disciplinary or adverse action based on such misconduct will notify the employee that the misconduct may result in denial of the employee's next career ladder promotion.

18.4 Grievances

An employee may grieve an adverse determination under this Article.

18.5 Notice of Promotion Potential

The noncompetitive career promotion potential for newly established bargaining unit positions within the NRC will be identified on the vacancy announcement at the time the position is posted.

Article 19

Details and Rotational Assignments

19.1 Details

A detail is the authorized temporary assignment of an employee to another position, normally at the same grade, or to other duties for a specified time period, with the employee scheduled to return to his or her regular duties at the end of the detail.

19.2 Temporary Promotions

The NRC agrees that an employee who is detailed or assigned to a bargaining unit position of higher grade for more than two consecutive complete pay periods, and meets the minimum qualifications for that position, will be temporarily promoted to that position and receive the rate of pay for that position to which he/she is temporarily promoted, to the extent permitted by applicable Government-wide regulations and decisions of the Comptroller General. The effective date of this temporary promotion will be the beginning of the first full pay period of the detail.

Rotational assignments are intended to be primarily developmental. Work that is performed under closer than normal supervision, or assigned solely for the purpose of training an employee for higher level work, cannot be considered paramount for grade level purposes. In these circumstances, employees on developmental rotational assignments would not be eligible for a temporary promotion.

19.3 Return from Detail or Rotational Assignment

The NRC will inform the employee returning from a detail or rotational assignment of any changes in work requirements of the position from which the person was detailed or assigned.

Employees will receive an evaluation of their performance on a detail or rotational assignment in accordance with Article 25.14.

19.4 Work Assignments During a Detail or Rotational Assignment

Employees on a detail or rotational assignment to or from a bargaining unit position will be relieved of responsibility for work of the position from which they were detailed or assigned to the extent practicable and consistent with the extent of the duties of the detail. The employee will prepare a written description of the work on which he/she has been engaged in prior to the detail or rotational assignment, specifically identifying actions which require attention if responsibilities for such work will be assigned to another employee.

19.5 Notice

If a unit employee is detailed for any reason, or participates in a rotational assignment, he/she must be provided notice as soon as practicable of the detail or rotational assignment which, at a minimum, informs the employee of the new organization, supervisor, and length of any detail or rotational assignment. An employee will be informed of any determination to extend a detail or rotational assignment as soon as possible, with the revised ending date. Upon request by the employee, the notice shall be in writing. In addition, for a detail which extends beyond 30 calendar days, an official personnel action will be prepared by the Office of Human Resources and given to the employee as soon as practicable.

19.6 Workstation Changes

For details on rotational assignments of less than 90 calendar days, an employee will not normally be required to give up his or her assigned workspace, although the employee may be required to work at a different location or workspace. When an employee is required to work at a new location, Article 35, Moves and Office Work Space Changes, will be followed as applicable.

19.7 Rotational Assignment Program

19.7.1 Introduction

It is the policy of NRC to broaden staff capabilities through the use of rotational assignments. Rotational assignments are generally short term lateral assignments of employees to other functions and components within the Agency. The purpose of rotational assignments is to develop greater overall capability and versatility within the staff in order to better accomplish the mission of the agency. Such assignments are designed to develop employee skills, foster a greater understanding of NRC programs, develop greater cohesion and cooperation among the staff, and provide employees with broader experiences and new challenges.

Although rotational assignments directly benefit participating employees, it should be emphasized that the operating needs of NRC and its organizational components are of paramount concern when effecting rotational assignments. For this reason, final approval of a rotational assignment requires the concurrence of appropriate managers in the office to which the employee is permanently assigned. Although no NRC employee is entitled to a rotational assignment, managers and supervisors should fully utilize the rotational assignment process in order to develop staff knowledge, skills, and abilities.

All NRC Offices and Regions can participate in the rotational process. All NRC employees can participate in rotational assignments, except for employees serving under temporary appointments. An employee may be rotated to a vacant position or to an unclassified set of duties. No vacancy announcement or vacant position is required for a rotational assignment to be developed. The normal duration of a rotational assignment is 3 to 6 months.

19.7.2 Participating in the Rotational Process

Consideration for a rotational assignment can develop in several ways:

- 19.7.2.1 Employees may indicate their interest by contacting their servicing Human Resources Specialist and providing a completed Rotational Assignment Application (NRC Form 711). Employees should discuss their interest with their supervisors and, as appropriate, include such interests in their Individual Development Plans.

19.7.2.2 With the current supervisor's approval, an employee may also identify and discuss a potential rotational assignment directly with a management official of another organization.

19.7.2.3 Supervisors may identify employees believed well suited for rotational assignments to or from their organizations. Appropriate supervisory approval is needed for consideration for all rotational assignments.

19.7.3 Identifying Rotational Assignments

19.7.3.1 Supervisors or managers having rotational opportunities may submit a Rotational Assignment Opportunity Notice to the appropriate Human Resources or Regional personnel Office representatives. The notice should describe the assignment, qualifications desired, length of rotation, etc.

19.7.3.2 The Office of Human Resources and the Chief, Human Resources Services and Operations, along with Human Resources Service Center and Regional Personnel Office representatives, will compare rotational opportunities with employees' Rotational Assignment Applications. The Applications which potentially match rotational opportunities will be forwarded to the Office(s) or Region(s) in which the opportunities are available. Offices and Regions will follow up with supervisors and employees as appropriate. An agreement between the losing and gaining organizations must be reached before the employee is notified that a rotational assignment will be effected.

19.7.3.3 At their discretion, supervisors may interview employees interested in a rotational assignment when ready to fill the rotational opportunity. Telephone interviews are acceptable. There is no requirement for any or all interested employees to be interviewed.

19.7.3.4 The Office of Human Resources, Chief, Human Resources Service and Operations, will routinely provide copies of Rotational Assignment Applications to Offices and Regions for their consideration in developing rotational opportunities.

19.7.4 Implementing Rotational Assignments

19.7.4.1 Agency travel and per diem regulations apply to employees participating in rotational assignments away from their regular duty station.

- 19.7.4.2 Employees who have any questions or want further information concerning rotational assignments should contact their Human Resources Service Center or Regional Personnel Office representatives.
- 19.7.4.3 An employee seeking a rotational assignment may request that his or her supervisor post an opportunity for a replacement while they participate on a rotational assignment elsewhere.

Article 20

Reassignments

20.1 Definition

For the purposes of this Article, reassignment means the change of an employee from one position or work location to another position or work location for an indefinite period without promotion, demotion or detail.

20.2 Reassignment Action

- 20.2.1 When NRC determines that the interest of the NRC will be served by the reassignment of an employee due to staff imbalance, workload fluctuation, new programs or locations, special projects, or for other legitimate reasons, that action may be effected. When a reassignment is made, to the extent practicable, consideration will be given to the needs and circumstances of individual employees, including, but not limited to, health problems, family situation and career aspirations.
- 20.2.2 Reassignments may be made by NRC for deficiencies in an employee's work performance or conduct which may be corrected or minimized in a different work location or position. The employee will be notified of the basis for such a reassignment, which may be challenged through the negotiated grievance procedure.
- 20.2.3 The NRC agrees to give the employee who is involuntarily reassigned a minimum of 10 workdays advance notice unless prevented from doing so by unusual circumstances or emergency conditions.

20.3 Change in Duty Station

If the reassignment involves a change in duty station, the NRC agrees to give the employee a reasonable amount of time to accomplish the change in duty station subject to applicable laws and Government-wide regulations.

20.4 Notice of Mobility

Certain unit positions (e.g. resident inspector positions) are filled with the understanding that the employee selected to fill the position will routinely be reassigned to another position in the NRC at the end of a given tour of duty (typically seven years for resident inspectors). A resident inspector may request that the Agency consider extending the typical seven year assignment. The NRC agrees to post vacancies for resident inspector positions with a nationwide area of consideration, and will include a notice indicating that selectees for such positions will be reassigned to other posts-of-duty at the end of their tour of duty. Failure to indicate the limited tour will not preclude the Agency from directing the reassignment.

20.5 Non-applicability

The procedures delineated in this Article are the comprehensive and exclusive procedures regarding reassignments which are not the result of a change in the organizational structure. If a reorganization or move is involved, Article 35 will be followed, as applicable.

20.6 Employee Requests for Reassignment

20.6.1 Employees may request a change to a position for which he/she is noncompetitively eligible. Employees seeking such positions are encouraged to apply to vacancies, solicitations of interest, and rotational opportunities for which they are eligible.

20.6.2 Application through a Vacancy Announcement

Although not covered by merit selection processes, an employee who requests a change to a position for which he/she is noncompetitively eligible and qualified will have his/her package reviewed by the selecting official. Such an applicant will also receive notification 1) when the agency receives his or her application; 2) when the application is forwarded to the selecting official, and 3) when the selection has been made. An applicant who is not selected may request a feedback session with the selecting official.

Article 21

Position Descriptions

21.1 Applicability

The classification of a position involves the determination of the appropriate grade, occupational series, and title. Position descriptions for employees will contain a statement of function and will describe the regular duties of the position with reasonable accuracy and in accordance with NRC Management Directive 10.37, Benchmarking, and in sufficient detail so as to permit proper classification of the position. However, policies, practices and matters relating to the classification of any position are not conditions of employment as defined by 5 U.S.C., Section 7103(a)(14). Therefore, they are outside the scope of collective bargaining and they are not covered by this Agreement.

21.2 Recommendations and Classification Appeals

21.2.1 Union Recommendations

The Union may make recommendations and present supporting evidence concerning the adequacy and equity of position descriptions or position classification standards.

21.2.2 Employee Requests for Review

If an employee believes that his or her position description (PD) is not accurate, he/she may request management to review the PD. Management will advise the employee of the results of that review as soon as practicable.

If an employee believes that his/her classification is not accurate, he/she may request a review in accordance with Management Directive 10.37. To the extent available, the Agency will provide the employee with copies of the position analysis, benchmarks and applicable classification standards prior to any desk audit. The NRC will not remove duties from an employee's position description for the purpose of interfering with any position classification appeal. However, the NRC's right to assign work shall be unabridged by the provisions of this section.

21.3 Change Notification

The NRC agrees to inform the Union as soon as practicable when significant changes will be made in the duties and responsibilities of a position held by an employee, and will comply with any bargaining obligations consistent with the requirements of Article 42, Mid-term Bargaining. The NRC also agrees to provide the Union with any new or changed position descriptions or agency position classification standards.

The NRC will continue to provide each employee with a copy of his/her position description, including any modifications to the position description. All pen and ink changes to the position description should be signed and dated by those authorized to make those changes. New or revised position descriptions will be provided to employees and to the Union within five workdays of the effective date of the action.

21.4 Other Duties

When the term “such other duties as assigned” or its equivalent is used in an employee’s position description, the term means--

- 21.4.1 duties that are normally related to the position,
- 21.4.2 duties that are of an incidental nature,
- 21.4.3 other duties when work to perform the duties described in the position description is not available, or
- 21.4.4 duties required by unforeseen workload demands.

21.5 Assignments Outside Position Descriptions

Nothing in this Article shall preclude the NRC from assigning work to an employee which is not described in the employee’s position description. However, the employee may raise a lack of adequate training as a defense to any alleged failure to adequately perform such work. The Union will be notified of any significant changes in job duties or responsibilities in accordance with 21.3, above.

Article 22 Awards

22.1 General

There is no entitlement to a performance award or other type of incentive award. Performance awards cover awards (including time off and cash) earned as a result of an employee's performance.

Other incentive awards (including Group and Special Act awards) recognize accomplishments for special acts or services, length of service and non-cash honor awards. Incentive awards may be monetary or non-monetary.

High Quality Increases (HQIs) are granted, at the NRC's discretion, for high quality performance. Employees who received an Outstanding annual performance rating may be eligible for an HQI, so long as they have not received a HQI in the prior 52 weeks. Employees may not receive both a HQI and a cash award for the same performance period.

22.2 Implementation

The NRC will implement its awards program in a fair and equitable manner. The percentage of salary allocated to the nonsupervisory performance awards will be no more than 0.8% less than the percent of salary allocated to supervisory employee performance awards.

All performance awards amounts within each Office (either as a percentage of each employee's salary or as fixed dollar amounts) will be tied directly to employee annual performance ratings. Employees who receive a performance rating of Outstanding or Excellent may be eligible for a performance award. Bargaining unit employees in the same office at the same grade level with the same performance evaluation score and same considerations shall receive identical monetary awards or the equivalent in time off or a combination of cash and time off. An employee whose appraisal and rating is delayed will receive the appropriate award amount when the rating is issued. For employees whose employment with the Agency does not cover the entire annual rating period, awards will be calculated on a pro rata basis.

The amount of performance awards within each office will be consistent between bargaining unit employees and nonsupervisory non-bargaining unit employees at the same grade and with the same rating or score.

22.3 Data Provided to NTEU

- 22.3.1 Office Directors/Regional Administrators or their designees will discuss anticipated bargaining unit employee performance awards with the designated union representatives. The information will include the structure for bargaining unit awards for that office, including the rating levels or scores to receive awards and the amount of award for each grade and performance rating or score. It will also include an explanation of any other considerations (such as, but not limited to, consideration of part time work schedule and recency of hire/promotion), and such considerations will be applied consistently throughout the office.

The information provided to Union representatives for the purpose of commenting on anticipated awards will be held in the strictest confidence and will only be used for the purposes of providing comments to the Office Director/Regional Administrator and his/her designee. The union representatives will keep this information confidential and will not duplicate, discuss, share or otherwise reveal this information with anyone other than the NTEU Chapter 208 Executive Committee (the President, Executive Vice President, Treasurer and Secretary), the NTEU National Field Representative, and the Office Director/Regional Administrator or his/her designee.

Information about anticipated awards will be provided to the designated NTEU representative for review and comment at least ten (10) work days before the awards are submitted for processing. NTEU will submit any comments within five (5) work days of receiving the information so that all comments may receive appropriate consideration prior to finalization of the awards and submission for processing. After considering any comments from NTEU, management retains the right to accept or reject comments and to issue awards.

- 22.3.2 On an annual basis, within 10 workdays of issuing performance awards or within 120 calendar days after the end of the rating period (whichever is later), the NRC shall provide NTEU National and Chapter 208 with an electronic spreadsheet for each Office of the following bargaining unit data:

22.3.3.1 A list showing, for each bargaining unit employee:

- A. Office
- B. Division
- C. Bargaining Unit Status
- D. Grade
- E. Number of Critical Elements
- F. Appraisal Score
- G. Overall Performance Summary Rating
- H. Final Amount of Award
- I. Remarks (to include data that explains any deviation from the award due based solely on grade and performance score).

Additionally, the Agency will provide the total annual bargaining unit GG salary for each Office, and the total bargaining unit award amount for each Office.

22.3.3.2 Aggregate data on the distribution of awards by Office/Region for bargaining unit employees by ethnicity/race, gender, and age group for Offices or Regions of more than 40 bargaining unit employees in electronic spreadsheets with the following data columns:

- A. Office/Region
- B. Ethnicity (African American, Asian Pacific, Hispanic, Native American, two or more races, White).
- C. Employees per office/region eligible for awards by ethnicity grouping, and
- D. Employees granted awards per office/region by ethnicity grouping;

Where there are fewer than ten (10) employees in an ethnicity group in an office, the agency need only to report the data as <10

22.4 Other Awards

The receipt of a Special Act or Service Award, or group award, does not preclude an employee from receiving a Performance Award.

22.5 Nomination by Employees

Any employee may recommend another bargaining unit employee for an award. Such a recommendation must be in writing, be signed or e-mailed, and stipulate the basis for the award. Employees are not permitted to nominate themselves.

22.6 Issuance of Awards

Performance awards and HQI awards will be issued to employees within four months of the end of the rating period where practicable. Incentive awards may be issued throughout the year.

Article 23

Suggestion Awards

23.1 Employee Notification

The NRC, in NRC Management Directive 10.72, Incentive Awards, has established a program through which employees can submit suggestions concerning the improvement of the NRC's operations. If the NRC does not adopt a suggestion, the employee shall be so advised promptly on receipt of advice from the evaluator in terms of reasons for nonacceptance. Promptly upon receipt of notice from an appropriate evaluator that a suggestion has been adopted, HR shall call or otherwise notify both the suggester and the suggester's supervisor of the action and the amount of the cash award, if any.

23.2 Award Consideration

An employee is eligible and entitled to consideration for an award if the NRC adopts his/her suggestion in whole or in part, or in modified form within two years after an initial decision not to adopt the suggestion was made by the responsible official. The case may be reopened for award consideration by either the employee, the NRC, or an awards official.

23.3 Award Determination

If NRC adopts an employee's suggestion pursuant to NRC Management Directive 10.72, a cash payment will be awarded. The amount shall be determined in accordance with an assessment of the tangible and/or intangible benefits to the Agency of the adopted suggestion. When, in an exceptional case, an award would total more than any limit which NRC is authorized to pay, the NRC will seek appropriate approval to make an award in excess of the limit.

Article 24

Within-Grade Increases

24.1 Within-Grade Increases

An employee paid at less than step 10 of the grade of his/her position shall be advanced in pay to the next higher step of that grade upon meeting the following requirements:

- 24.1.1 the employee must have completed the applicable period of creditable service as shown in Section 24.3;
- 24.1.2 the employee must not have received an equivalent increase during the applicable period; and
- 24.1.3 the employee's performance must be at an acceptable level of competence.

An acceptable level of competence is a level of performance at or above "Fully Successful" by an employee of the duties and responsibilities of his/her assigned position during the applicable period of creditable service and includes a determination of satisfactory conduct during such period.

24.2 Relationship to Conduct

A within-grade increase may be denied based on misconduct within the year preceding the eligibility date of a within-grade increase which results in a suspension when the employee's misconduct affects his or her qualifications or ability to successfully perform the duties of the position. The notice of proposed disciplinary or adverse action based on such misconduct must notify the employee that the misconduct may result in denial of the employee's next scheduled within-grade increase. If information becomes available to the supervisor from an ongoing investigation that an employee may be guilty of misconduct which may warrant at least a suspension, the within-grade increase may be delayed pending the outcome of that investigation.

24.3 Waiting Period

For full-time or part-time GG employees with a prearranged regularly scheduled tour-of-duty, completion of the following number of scheduled workweeks of creditable service since the effective date of the last increase, shall be required for advancement to the step rate specified:

- 24.3.1 To advance to Steps 2, 3, or 4 in any pay grade, the employee must have worked 52 workweeks of creditable service.
- 24.3.2 To advance to Steps 5, 6, or 7 in any pay grade, the employee must have worked 104 workweeks of creditable service.
- 24.3.3 To advance to Steps 8, 9, or 10 in any pay grade, the employee must have worked 156 workweeks of creditable service.

24.4 Performance Feedback

At least 60 calendar days prior to the date that an employee's period of creditable service ends, the employee's supervisor will review the employee's performance and, if the supervisor determines that the employee's performance is below fully successful and therefore does not meet an acceptable level of competence, the employee will be immediately notified and counseled, as required under Article 25.9. Such counseling will provide specific advice as to how the employee can improve his/her performance to an acceptable level of competence and a statement that the within-grade increase will be denied unless the employee's performance improves to an acceptable level of competence.

24.5 Final Determination

At the end of the employee's required period of creditable service, management shall make a determination as to whether the employee's performance has been at an acceptable level of competence. In making that determination, management shall base the determination on the essential requirements of the employee's position and on the employee's performance during the required period of creditable service. If the employee's performance has been at the acceptable level of competence and can reasonably be expected to continue at that level, management will approve the employee's within-grade increase no later than 5 workdays after the end of the period of creditable service. If the employee's performance is not at an acceptable level of competence, management will so notify the employee in writing no later than 5 workdays after the end of the period of creditable service. Such notification shall include:

- 24.5.1 a statement that the within-grade increase is denied and the effective date;
- 24.5.2 a statement of the reasons for the denial;
- 24.5.3 a statement that the employee has the right to grieve the denial and to whom the grievance should be addressed (normally that person will be the Step B official in the grievance process);
- 24.5.4 a statement that failure to improve to the fully successful level will result in continued within-grade denial;
- 24.5.5 if the within-grade denial is based on unacceptable performance rather than minimally successful performance, a statement that failure to improve performance to the minimally successful level will be cause for the NRC to effect the employee's removal, demotion, or reassignment in accordance with Article 25, Performance Appraisal System;
- 24.5.6 a statement that if the supervisor will review the employee's performance on a regular basis (at least quarterly), and if he/she determines that the employee is performing at an acceptable level of competence, the within-grade increase can be approved at any time; and
- 24.5.7 a statement that in any event, a new determination will be made no later than 52 weeks after the date of the original determination.

24.6 Effective Date of a Within-Grade Increase

When an employee's performance is determined to be at an acceptable level of competence before the expiration of the prescribed period of creditable service, the effective date of the within-grade increase will be the first day of the first full pay period following the completion of the period of creditable service. When a within-grade increase is delayed beyond the proper effective date through administrative error, unintentional delay or oversight, or based on an investigation which does not result in a suspension of the employee, it shall take effect retroactively as of the date it was otherwise due. Failure to meet the advance notice requirement under 24.4 will not constitute grounds for granting a within-grade increase which would otherwise have been denied.

24.7 Effective Date of Improved Performance

When an employee's performance is determined to be at an acceptable level of competence, following an earlier negative final determination, the effective date of the within-grade increase will be the first day of the first full pay period following the new determination.

24.8 Burden of Proof

In any grievance arising under this Article, the NRC shall bear both the initial burden of going forward and the ultimate burden of proving by substantial evidence that the aggrieved employee was not performing at an acceptable level of competence.

Article 25

Performance Appraisal System

25.1 Contract Precedence

Performance appraisals for bargaining unit employees will be done in accordance with NRC management directives except as provided below. Wherever the terms of this contract and a management directive conflict, the contract takes precedence. This contract will apply to all bargaining unit employees, including trial period employees, except nothing in this article will supersede Article 48 of the Agreement or waive any rights trial period employees have under Chapter 43 of 5 U.S.C.

25.2 Changes to Elements and Standards

The NRC will notify employees of changes to elements and standards in their present positions at least 10 workdays prior to implementation. At the request of any employee a meeting will be held between the employee and his/her supervisor to discuss the elements and standards and to allow the employee to comment and make recommendations concerning them. The employee may also provide comments and recommendations within the ten workdays of such notification without a meeting. The employee may, if he/she desires, seek advice and guidance from NTEU during the time frame concerning these changes. The supervisor will provide the employee with feedback as to his/her comments and/or recommendations.

The elements and standards will align with an employee's duties and responsibilities, as described in position descriptions, and may draw on other appropriate sources such as strategic goals and office operating plans.

25.3 Management Responsibilities

The law provides that it is the right and responsibility of management to determine the number of rating levels and final performance elements and standards, subject to the Union's right to negotiate over the impact and implementation of management's determination of these matters.

25.4 Receipt of Elements and Standards

A copy of the final version of the elements and standards will be provided to the employee. The new elements and standards become effective upon receipt by the employee. The employee should sign the NRC Form-412 which acknowledges only receipt of the performance plan and that the opportunity to provide comments has been provided. If an employee declines to sign the NRC Form-412, the supervisor will annotate the employee's refusal to sign the Form-412 on the line designated for the employee's signature. In no event may the implementation of elements and standards be made retroactive without the written consent of the employee.

25.5 Appraisal Period

Annual ratings will be based on performance during the rating period, which runs from October 1 through September 30. All bargaining unit employees who have worked under a set of critical elements and performance standards for 120 calendar days or more by the end of the rating period (September 30) will normally receive a written appraisal of performance (rating of record) by October 31 each year for the rating period just completed.

- 25.5.1 For new employees who have not worked under at least one set of critical elements and standards for at least 120 days by the end of the rating period (September 30), the rating period will be extended until 120 days have been completed, at which time the rating will be prepared (with the subsequent rating period being less than 12 months).
- 25.5.2 Employees who serve in a position for 120 days or more and who move to a new position with different critical elements and standards will receive a close-out appraisal based on their performance in the vacated position.
- 25.5.3 When a supervisor supervises an employee for 90 days or more during the rating period and departs prior to the end of the rating period, that supervisor will, to the extent feasible, provide written feedback on the employee's performance at that time, a copy of which will be given to the employee.
- 25.5.4 Close-out appraisals and feedback from departing supervisors will be provided to the employee and will be given appropriate weight when determining the employee's annual rating of record. When a close-out appraisal is given for a period ending less than 120 days before the end of the annual rating period (i.e., after May 31), then the close-out appraisal becomes the annual rating of record (with the subsequent rating period being more than 12 months).

25.6 Notice of Delay

If the annual rating is delayed beyond 10 workdays of the annual due date (October 31), management will inform the employee when the rating of record might be expected. Such date will be as soon as practicable.

25.7 The Appraisal Process

In accordance with 5 U.S.C. 4302(b)(1), NRC establishes performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the employee's job, and evaluates employees against such standards. Employees will not be held accountable for delays that are beyond their control.

- 25.7.1 In addition to indicating the rating, the supervisor shall write a brief narrative for each critical element either on NRC Form 412 or attached to the employee's appraisal form.
- 25.7.2 Performance will be rated against the written Fully Successful standards, typically written in terms of quality of work, quantity of work, timeliness, and supervision required. When performance exceeds or does not meet the Fully Successful standard, justification should be included to clearly and explicitly justify the assignment of a rating above or below the Fully Successful level.

- 25.7.3 Normally, an employee's supervisor at the end of the rating period appraises the employee's performance. A reviewing official (usually the second level supervisor) reviews performance plans for accuracy and consistency with mission requirements and plans for similar positions and assures that subordinate supervisors conduct appraisals in an equitable, accurate, and consistent manner.
- 25.7.4 In accordance with 5 CFR 430.208(c), the method for deriving and assigning a summary level may not limit or require the use of particular summary levels (i.e., establish a forced distribution of summary levels).
- 25.7.5 Performance appraisals of stewards and Union representatives shall be based solely upon the performance of their NRC assigned duties in the available time to perform such assigned duties.

25.8 Grievances

Should an employee disagree with the rating of record, he/she has the right to file a grievance pursuant to Article 46.

The parties agree that when any element and standard is alleged to be inconsistent with the NRC's regulations as well as any government-wide rule or regulation, such elements and standards may be grieved.

25.9 Performance Feedback

- 25.9.1 Employees should be given performance feedback throughout the year. Employees and managers should strive to discuss performance throughout the year and employees are encouraged to seek feedback. When employees request performance feedback, the supervisor should strive to meet with the employee within 10 workdays.

At any time during the rating period, any significant decline in performance from the beginning of the appraisal period should be brought to the employee's attention to (1) provide the employee time to improve, and (2) avoid surprises in the annual appraisal.

- 25.9.2 Employees at all levels are encouraged to learn, develop, and hone their skills. Managers and employees are encouraged to take advantage of the resources the agency makes available to assist them in constructive two-way communications. These include training resources, assessment tools, guidance on developing Individual Development Plans, and best practices for performance communication and feedback.

Management will consider employees' interests in developmental assignments and/or special projects to the extent feasible, consistent with accomplishing the work effectively and efficiently, along with other appropriate considerations such as but not limited to, the availability of funds, nature of the position, the employees' skills, equity, and agency policy.

- 25.9.3 Each bargaining unit employee shall be given a progress review mid-way through the appraisal period (generally in March, but no later than April 30) if they have served under a performance plan for 120 days by that time. During the progress review, the employee and his/her supervisor shall discuss the employee's performance. No summary rating calculations are required.
- 25.9.4 An employee whose performance in any element is believed by the supervisor to be at the Minimally Successful level at any time during the rating period shall receive a counseling memo specifying 1) the area(s) in which his/her performance is deficient; 2) recommendations as to how his/her performance can be improved.
- 25.9.5 The employee should sign the NRC Form-412 which acknowledges only that the Progress Review has occurred. If an employee declines to sign the NRC Form-412, the supervisor will annotate the employee's refusal to sign the Form-412 on the line designated for the employee's signature.

25.10 Performance Improvement Requirements Memorandum (PIRM)

When an employee's performance is deemed unacceptable in any critical element at any time during the rating period, management shall assist the employee. Such assistance may include formal training, on-the-job training, counseling, and/or closer supervision as appropriate. The employee shall be given a reasonable opportunity to demonstrate required level of performance (currently minimally successful) or higher.

Prior to taking a performance-related action under Section 25.11 of this Article, management will give employees whose performance is unacceptable will be given a performance improvement period of not less than 60 calendar days to bring their performance up to the required level of performance (currently Minimally Successful). Performance improvement periods will be extended beyond the initial period if circumstances so warrant, as determined by management. Management shall prepare a Performance Improvement Requirements Memorandum (PIRM) which:

- 25.10.1 identifies the critical element(s) for which employee's performance is unacceptable;
- 25.10.2 details the way in which the employee's performance is not meeting the standard for the critical element(s);
- 25.10.3 communicates new performance standards at the required level of performance (currently Minimally Successful) for critical elements in which performance has been deemed to be unacceptable. These standards shall be reviewed, approved, and documented on the employee's performance plan as an addendum to the performance plan;
- 25.10.4 describes how management (normally the supervisor) will assist the employee to improve performance;

- 25.10.5 informs the employee of the time frame allowed to bring his/her performance up to at least the required level of performance (currently Minimally Successful);
- 25.10.6 states that failure to improve performance to the Fully Successful level will result in denial of within grade increase; and failure to improve to at least the required level of performance (currently Minimally Successful), and sustain that level for 1 year from commencement of the PIRM, may result in initiating an action to reassign, reduce the grade level of the employee, or remove the employee.

The employee will be given the original and a copy of the PIRM notice, one of which may be given to the employee's NTEU representative, if any, who may be present for the presentation of the PIRM. An employee may not grieve the Agency's decision to place an employee on a PIRM, but may grieve or file an appeal over any Agency action upon completion of the PIRM, as provided in 25.11-13, below.

Within 30 days after completion of the PIRM period, the agency will advise the employee of the status of the PIRM. Failure to provide such status, however, will not preclude the agency from taking any action it deems appropriate based on the PIRM.

If the employee successfully completes the PIRM, he/she should receive a written notice of that decision as soon as practicable after completion of the PIRM period. This notice should also advise the employee that failure to sustain at least the required level of performance (currently Minimally Successful) for one year after the commencement of the PIRM may result in an action to reassign, reduce in grade, or remove the employee from the Federal service.

If, because of performance improvement to at least the required level of performance (currently Minimally Successful) by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice, any entry or other notation of the unacceptable performance shall be removed from all NRC records relating to the employee, notwithstanding other retention schedules for performance appraisals.

25.11 Proposed Performance-Related Actions

Subject to the applicable provision of this Agreement, OPM regulations and 5 U.S.C., the NRC may reduce in grade or remove an employee for unacceptable performance. When taking such action, the NRC will do so in accordance with the following procedure. An employee whose reduction in grade or removal is proposed under this section is entitled to at least 30 calendar days advance written notice of the proposed action which:

- 25.11.1 identifies specific instances of unacceptable performance by the employee on which the proposed action is based;
- 25.11.2 specifies the critical element(s) of the employee's position involved in each instance of unacceptable performance;
- 25.11.3 informs the employee of the right to representation by an attorney or other representative;

- 25.11.4 provides, by attachment, copies of all documents relied upon by management in proposing the action.

The employee shall be provided a reasonable time frame (not less than 7 workdays) in which to answer orally and/or in writing, and the employee shall be provided with a reasonable amount of official time within such period to prepare an oral and/or written reply.

The oral and/or written reply will be received by an official designated by the NRC in the proposal notice.

The NRC shall prepare a verbatim transcript of the oral reply. A copy shall be provided to the employee's representative at the same time that it is provided to the deciding official.

25.12 Final Decision

The decision letter shall be issued within 30 calendar days after the expiration of the notice period. The decision shall inform the employee of his/her appeal rights. If the decision involves a reduction in grade or removal, it shall address which instances of unacceptable performance if any, have been rejected and which, if any, have been sustained and are being relied upon to support the action. It shall also describe the appeal rights of the employee and indicate the effective date of the decision.

Unless proposed by the head of the Agency, the decision must be concurred in by a higher level manager in the organization than the one who proposed the action.

25.13 Appeal

A non-preference eligible employee against whom a removal or downgrade decision has been issued under the terms of this Article, who has two years of creditable service, may appeal the decision to the Merit Systems Protection Board, when appropriate, or, alternatively, may appeal (with the consent of the Union) pursuant to Article 47, "Arbitration Procedures" or any other provision available under law.

A preference eligible employee against whom a removal or downgrade decision has been issued under the terms of this Article, who has one year of creditable service, may appeal the decision to the Merit Systems Protection Board, when appropriate, or, alternatively, may appeal (with the consent of the Union) pursuant to Article 47, "Arbitration Procedures" or any other procedure available under law.

25.14 Details and Rotational Assignments

Employees detailed or serving on a rotational assignment for more than 90 days shall be entitled to feedback of their performance which meets the requirements of this article while on the detail or rotational assignment. Such evaluation shall be completed by the appropriate supervisor and will be received by the employee within 30 days after the end of the detail or rotational assignment. The evaluation will be given appropriate weight when providing the employee his/her rating of record.

25.15 Self-Assessment

During the final 30 days of an employee's annual appraisal period (normally September), the employee may prepare a brief self-assessment to submit for their supervisor's consideration. Employees will be allowed a reasonable amount of duty time to prepare such an assessment.

25.16 Receipt of Appraisal and Comment Period

Each employee will be provided an appraisal and rating. Employees will be allowed five workdays after receipt of their appraisal to review, comment, sign and return their appraisal to their supervisor. Signature on NRC Form-412 acknowledges receipt of the appraisal, and not acceptance or agreement with the appraisal or rating. Any employee comments submitted will become part of the appraisal. Exceptions to this time frame may be granted by the supervisor on a case by case basis. Exceptions may be based on, but not necessarily limited to, an employee's being in a travel status or on approved leave. If an employee declines to sign the NRC Form-412, the supervisor will annotate the employee's refusal to sign on Form-412 on the line designated for the employee's signature.

25.17 Appraisal Data

Annually, no later than November 30 of each year, the agency will provide the President, NTEU Chapter 208 a numerical listing (no names) of performance appraisal ratings by Office, Division, and/or Branch. If the appraisal data is not complete at this time, the Union will be advised of each office or region for which data is missing and its expected completion date, and updated data will be provided as soon as available.

Article 26

Training and Development

26.1 Training Decisions

NRC and the Union agree that training and development of employees is a matter of significant importance. Upon prior approval and authorization by the NRC of a request for non-governmental training, the NRC will pay for such training to the extent provided in the approval document, subject to training fund availability. Such requests must be submitted in writing to the employee's immediate supervisor. The decision to approve and authorize such training or to deny the request will be based upon the following criteria, as applicable:

- 26.1.1 the availability of budgetary resources;
- 26.1.2 workload, when the employee will be in attendance at training courses during official duty hours;
- 26.1.3 the training will be cost-beneficial to the Agency;
- 26.1.4 the training will enable the employee to increase the employee's ability to perform his/her current job;
- 26.1.5 suitable training is not available through NRC developed courses at the time;
- 26.1.6 suitable programs are not being offered by other government agencies within the local area;
- 26.1.7 the course meets the needs of the employee and the NRC; and
- 26.1.8 the course is not being taken solely for the purpose of obtaining a degree.

Unless prohibited by law, one or more of the above criteria may be waived in light of the importance of the training.

26.2 Reimbursement to Agency

Employees must provide evidence of satisfactory completion of training. Employees who fail to satisfactorily complete the training by, in, or through a nongovernment facility shall reimburse the NRC for all tuition and government paid related expenses incurred by the NRC for such training.

26.3 Non-Governmental Training in Excess of 80 Hours

An employee selected for training by, in or through a nongovernment facility for a period in excess of 80 hours within a single program, shall agree in writing with the NRC before assignment to training that he/ she will:

- 26.3.1 Continue in the service of his/her agency after the end of the training period for a period at least equal to three times the total amount of time spent in training, including associated time absent from duties described in his/her official duties, unless he/she is involuntarily separated from the service of the NRC.

For example: If an employee participates in training or education which involves a total absence of 8 hours per day, even though the training may be more or less than 8 hours per day, the length of the service learning agreement will be calculated on the basis of three times 8 hours per working day for each such day.

- 26.3.2 If an employee spends time in training during non-work hours, the length of time is three times the number of hours specifically spent in training.
- 26.3.3 If an employee is absent from duties described in his/her position description four hours per day, three days per week, the period he/she will be required to serve will be three times 12 hours, times the number of weeks of training.
- 26.3.4 Pay to the NRC the amount of expenses, as defined in 5 U.S.C., Section 4109, incurred by the NRC in connection with the training if he/she is voluntarily separated from the service of the NRC before the end of the period for which he/she agreed to continue in the service of the NRC.

26.4 On-The-Job Training

When an employee is reassigned from one bargaining unit position to another bargaining unit position, NRC will provide on-the-job or such other training, as the Agency determines appropriate and necessary for the new position. The supervisor will arrange to meet with the employee to discuss any training appropriate and necessary.

26.5 Outside Information

The NRC will make available on its internal website, information concerning training opportunities or educational programs, which will include, to the extent available, the name of each vendor and the name or description of any approved outside training. Employees may also consult with their Office/Region Learning Management System Administrator regarding external training that has been approved by the Office/Region for various subject matter areas.

26.6 Training Related to Merit Selection

Merit selection procedures set forth in this Agreement shall be followed in selecting regular (excepted) and regular (excepted conditional) employees for training that is given primarily to prepare trainees for advancement and that is required for promotion.

26.7 Self-Development

Employees are encouraged to keep abreast of developments which are related to their work assignments. One means of doing this is through attendance at meetings and conventions concerned with the functions or activities for which NRC appropriations are made or which contribute to improved conduct, supervision or management of such functions and activities.

Unless a specific employees' attendance is required, the NRC shall grant permission for employees to attend such functions in a fair and equitable manner.

26.8 Conference Consideration

When an Office or Region determines that it is in the Agency's best interest to have employee attendance at a conference or convention, NRC agrees that unless management determines that a specific employee(s) attendance is necessary as an assignment of work, those employees who have been denied an opportunity for attending such sessions and express an interest in attending previously should receive first consideration for approval to attend later sessions.

26.9 Individual Development Plan (IDP)

At the time a supervisor meets with an employee to discuss his/her rating of record at the request of the employee, he/she shall reserve time for each employee for the purpose of mutually developing and/or modifying an Individual Development Plan (IDP) in accordance with NRC Management Directive 10.77, Employee Development and Training.

Article 27

Pay and Benefits

27.1 Pay System

Should the NRC propose any changes to its existing pay system, it shall notify the union and negotiate to the extent required by law and in accordance with the terms of Article 42, Mid-term Bargaining.

27.2 Public Transit Subsidy

Subject to budgetary constraints, the Agency will reimburse employees for costs of using public transportation for home-to-work travel through a Public Transit Subsidy Program to the maximum amount permissible by law or IRS regulations. The Agency will provide the Union with at least 14 days advance notice if budgetary constraints will prevent payment of the maximum allowable subsidy, and provide an explanation of the reasons.

27.3 Pre-tax Parking

The Agency will, as soon as practicable, establish a program to permit all employees to pay for NRC provided parking with pre-tax dollars, subject to IRS requirements. The Parties will establish a sub- committee of the Agency Labor-Management Relations Partnership Committee to explore the feasibility of extending this benefit to employees who park at locations not provided by NRC.

Article 28

Overtime Work

28.1 Performance of Overtime Work

NRC may order the performance of overtime work. However, consideration shall be given to the effect of such additional work on the health and efficiency of the employee. Overtime will be compensated in accordance with applicable laws, regulations, and this Article.

28.2 Exempt or Nonexempt Employees

In order to inform employees that they are exempt or nonexempt from the Fair Labor Standards Act (FLSA), the NRC will make an appropriate entry on each SF-50 which effects a position change for an employee.

28.3 Distribution of Overtime

Unless NRC determines that a specific employee(s) is required to perform an overtime assignment, NRC agrees to fairly distribute overtime work among qualified employees who volunteer for the overtime. In those cases where there are no volunteers, NRC agrees to use reverse seniority (based on NRC entry on duty date (EOD) without regard to grade).

This section 28.3 does not apply to the Headquarters Operations Officers (HOOs) in the Office of Nuclear Safety and Incident Response (NSIR).

28.4 Notification of Involuntary Overtime

The NRC will, when practicable, notify an employee at least 2 full workdays in advance of the scheduling of an involuntary overtime assignment. When an employee has been ordered to work overtime because there are no qualified volunteers, he/she may be relieved of the assignment if he/she can find a replacement, subject to the approval of the supervisor where the work is to be performed. In such cases where the replacement comes from another organizational segment, the replacement's supervisor must also concur. When ordering involuntary overtime, the NRC will consider significant personal hardships whenever possible and assist in finding a qualified replacement.

28.5 Overtime Work and Associated Compensation

Employees are entitled to overtime pay or regular compensatory time off, subject to applicable pay caps, for overtime work that is officially ordered or approved. Only employees on NEWFlex work schedules may request/be granted regular compensatory time off in lieu of overtime pay for regularly scheduled overtime work.

Note also that FLSA non-exempt employees who are on other than NEWFlex work schedules are entitled to overtime pay, or regular compensatory time off as appropriate, not only when overtime work is ordered or approved, but also when it is "suffered or permitted," that is, when the overtime work is performed for the benefit of the agency, whether requested or not, provided the supervisor knows or has reason to believe that the work is being performed, has an opportunity to prevent the work from being performed, and does not prevent the work from being performed.

Overtime worked beyond a 15-minute increment is referred to as “fractional” overtime and is compensated if properly ordered or approved, or suffered or permitted, as appropriate. Fractional overtime is summed on a workweek basis and any remaining minutes beyond a 15-minute increment are rounded up or down to the closest 15-minute increment. The rounded sum is to be recorded on the last regular workday of the workweek.

Employees are to request approval, normally in advance, for overtime work and associated compensation via the “Leave/Additional Hours Request” function in HRMS. When this is impractical, oral prior approval may be requested/granted and the request/approval will be documented via the HRMS request function after the fact as soon as practical. In situations where no prior approval is requested/granted, supervisors may exercise their sole discretion to approve the overtime work and associated compensation after the fact and the hours approved must be input afterwards via the HRMS request function. When employees wish to deviate from the requests already approved in HRMS, they must typically obtain their supervisor’s prior verbal approval. Supervisors have the sole discretion to grant approval after the fact and only verbally without a requirement for subsequent written confirmation via the HRMS request function when additional overtime hours and associated compensation are requested.

28.6 Voluntary Overtime

Employees are not encouraged to volunteer for overtime work which may not be compensated.

28.7 Work Performed at Home or at Non-Work Locations Outside Scheduled Duty Hours

Employees who are required by management to perform work at home or at a non-work location outside scheduled duty hours will be compensated for time worked subject to pay caps and fractional overtime rules specified in Article 28.

Article 29

Compensatory Time

29.1 Availability

Compensatory time off instead of payment for an equal amount of time spent in irregular or occasional overtime work shall be available to employees to the extent provided by applicable laws and regulations. Employees on flexible work schedules may also request compensatory time for regularly scheduled overtime work. In situations where the NRC has discretion to grant either compensatory time off or overtime pay, the NRC has determined that the employee shall be allowed to select his/her preferred method of compensation.

29.2 Compensatory Time Increments

Premium pay work will be directed or authorized and paid for normally in increments of no greater than 15 minutes and in accordance with government regulations. Compensatory time shall be earned at the rate of one unit of compensatory time for each unit of covered work. All fractional periods of time worked will be aggregated on a workweek basis, and any remaining irregular, unscheduled overtime work which does not satisfy the full fractions established will be rounded up or down to the nearest increment.

29.3 Request to Use Compensatory Time

Once compensatory time has been earned, employees must request to use it within the 26 pay periods from when it was earned, except that compensatory time credited to employees as of May 14, 2007 must be used by the end of the pay period ending three years after that date. Requests to use compensatory time-off shall be made in writing. A request for use of earned compensatory time will be considered in the same manner as a request for use of annual leave (Article 10). Employees will be paid for any compensatory time not used within the required period.

If compensatory time earned accumulates to a total of 40 hours at any one time, all overtime hours worked over the 40 hours will be paid at the applicable overtime rate until the accumulated total of compensatory time earned is decreased below 40 hours. Nothing in this Article shall preclude Office Directors and Regional Administrators from declaring, during a certain period of time, that compensatory time may not be used due to emergencies, workload considerations, or other exigent circumstances.

29.4 Compensatory Time for Religious Observances

- 29.4.1 Employees (including those paid at the statutory maximum) are permitted to work compensatory overtime for the purpose of taking time off for religious observances. Such overtime may be worked before or after the compensatory time off.

- 29.4.2 To the extent that a modification in work schedule does not interfere with the timely and efficient accomplishment of the Agency's mission, the Agency shall in each instance afford an employee the opportunity to work compensatory overtime and shall in each instance grant compensatory time off to an employee requesting such time off for religious observances when the employee's personal religious beliefs require that he/she abstain from work at certain times of the workday or workweek.
- 29.4.3 Employees must submit a written request for religious compensatory time in advance. Employees shall specifically state that their request is for religious compensatory time, and they may be requested to provide acceptable documentation of the need to abstain from work. When deciding whether an employee's request for religious compensatory time should be approved, the Agency must not make any judgment about the employee's religious beliefs or his/her affiliation with a religious organization.
- 29.4.4 An employee will be allowed to accumulate only the number of hours of compensatory time needed to make up for previous or anticipated absences from work for religious observances.
- 29.4.5 If an employee is absent when he/she is scheduled to perform work to make up for a planned absence for a religious observance, the employee must reschedule the required make-up work. Make-up work will normally be performed within 2 pay periods of the absence for a religious observance. Otherwise, he or she must take paid leave, request leave without pay, use earned credit hours if appropriate, or be charged absent without leave if approved leave is not permitted.
- 29.4.6 Compensatory time worked does not create any entitlement to premium pay (including overtime pay). If an employee is separated or transferred before using the time set aside for religious observances, any hours not used must be paid at the employee's rate of basic pay in effect when the extra hours of work were performed.
- 29.4.7 Only Office Directors and Regional Administrators may make the determination that an employee will be denied compensatory time for religious observances. Such a denial must meet the criterion that such time off would interfere with the efficient accomplishment of the agency's mission.

29.5 Compensatory Time for Travel

Employees may earn compensatory time for time spent in travel outside scheduled duty hours when the employee is not otherwise eligible for compensation for such time, in accordance with law, rule and regulation and the NRC's policies, as negotiated with NTEU.

Article 30

Overpayments to Employees

30.1 Claim Waiver

The NRC will consider all applications to waive a claim arising out of an erroneous payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under Section 5724a of Title 5, U.S.C., on a case-by-case basis. The application must be received by the NRC within three years immediately following the date on which the erroneous payment was discovered. The NRC will decide each application in accordance with applicable law and Government-wide regulations.

30.2 Waiver Criteria

Claims may be waived in whole or in part if collection action under the claim would be against equity and good conscience and not in the best interests of the United States. Generally these criteria will be met by a finding that the erroneous payment of pay or allowances occurred through administrative error and that there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim. Any significant unexplained increase in pay or allowances which would require a reasonable person to make inquiry concerning the correctness of his/her pay or allowances, ordinarily would preclude a waiver when the employee fails to bring the matter to the attention of appropriate officials. Waiver of overpayments of pay and allowances under this standard necessarily must depend upon the facts existing in the particular case.

30.3 Collection

When an employee has been determined to be indebted to the United States because of an erroneous payment which is not waived, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the employee. The deductions may be made only from basic pay, special pay, incentive pay, retired pay, or in the case of an employee not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment. If the circumstances warrant, consideration will be given to permitting the employee to pay the debt over the same number of pay periods as were involved in the erroneous overpayment. The amount deducted for any period may not exceed two-thirds of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the employee retires or resigns, or if his/her employment otherwise ends before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due the individual from the NRC.

Article 31

Employee Assistance Program

31.1 Implementation

The NRC agrees to have an Employee Assistance Program (EAP) for those employees experiencing alcoholism, drug abuse, financial, emotional or other personal problems which adversely affect job performance. NRC will distribute information periodically which will explain the existence and benefit of this program.

31.2 NTEU Orientation

Upon request, NRC will arrange appropriate orientation for all Chapter 208 officers and stewards on NRC's Employee Assistance Program.

31.3 Referrals

The NRC will refer an employee with conduct or performance issues to counseling when it is apparent that the employee might benefit from the NRC EAP. Employee participation in the EAP is voluntary. It is understood that employees undergoing a prescribed program of treatment will be granted sick leave for treatment on the same basis that sick leave is granted for other illnesses.

Article 32

Temporary Assignment of Other Duties

32.1 Reasonable Efforts to Assign Other Duties

The NRC will make reasonable efforts to assign other duties to an employee who, for physical or mental reasons, is temporarily unable to perform his/her regularly assigned duties provided such assignment is in the interest of the Agency, and:

- 32.1.1 The employee is qualified for the duties;
- 32.1.2 The employee is physically and mentally capable of performing the duties; and
- 32.1.3 the duties are available.

When requesting such other duties, an employee must provide a medical certificate stating the nature of the impairment, its anticipated length, and the types of duties the employee should not perform.

Article 33

Retirement and Resignation

33.1 Retirement Planning

NRC agrees that covered employees shall be given an opportunity to voluntarily participate in a retirement planning program. Priority shall be given to employees who are within 5 years of retirement eligibility. This program, whether established by the NRC or contracted for through another agency may include the following subjects: counseling on tax issues related to retirement, discussions on health problems related to retirement, explanation of social security benefits, explanation of federal health care benefits, as well as any other public health care programs, aspects of senior citizenship, such as wills and estates, and explanations of Federal life insurance benefits as well as life insurance problems associated with the transition between a work and a leisure environment.

33.2 Retirement Information Upon Separation

Each employee who retires will be given an OPM retirement brochure. Upon request, each employee who separates voluntarily or involuntarily (except by retirement) will be informed by the NRC as to his/ her rights to file for disability retirement, the possibility of applying for a discontinued service annuity and eligibility for deferred annuity at age 62.

33.3 Withdrawal of a Resignation/Retirement Application

An employee may withdraw a resignation or an application for retirement before its effective date provided the withdrawal is communicated in writing to the employee's supervisor. In accordance with the OPM Retirement Handbook and 5 CFR §715.202, NRC may decline a request to withdraw a resignation or an application for retirement when it has valid reason and explains that reason to the employee. NRC will notify OPM if it approves an employee's request to withdraw his or her retirement application.

33.4 Request for Annuity Information

Upon written request, any employee will be provided with a calculation of their annuity entitlement within 15 workdays of submitting the request, if practicable.

33.5 Union Notification

The NRC agrees to notify Chapter 208 within 20 workdays after the date that any bargaining unit employee terminates his/her employment.

Article 34

Repayment of Student Loans

34.1 Policy and Provisions

To the extent the agency is authorized to do so and to the extent it allocates funds for this purpose, the agency will establish a Repayment of Student Loan Program that includes the following:

- 34.1.1 The student loan repayment program is to recruit or retain highly qualified professional, technical or administrative personnel.
- 34.1.2 The NRC can repay all or part of any outstanding federally insured student loan up to \$10,000 per year per employee. The total amount per employee cannot exceed \$60,000. Employees participating in the program must remain with the agency for at least three years.
- 34.1.3 Employees who voluntarily leave government, or who are dismissed because of misconduct or poor performance, must reimburse the agency for their loans. The NRC has the discretion to waive this repayment.
- 34.1.4 Consistent with applicable law and regulation, the NRC will establish a system for selecting employees to receive student loan repayments to include:
 - 34.1.4.1 Written Determination: Loan repayments must be based on a written determination that, in the absence of offering loan repayment benefits, the agency would encounter difficulty, either in filling the position with a highly qualified candidate, or retaining a highly qualified employee in that position.
 - 34.1.4.2 Recruitment: Each determination for recruitment purposes (including the amount to be paid) must be made before the employee actually enters on duty in the position for which he or she was recruited.
 - 34.1.4.3 Retention: Payments authorized in order to retain an employee must be based upon a written determination that the high or unique qualifications of the employee or special need of the agency for the employee's services makes it essential to retain the employee, and that, in the absence of offering student loan repayment benefits, the employee would be likely to leave for employment outside the Federal service. This determination must be based on a written description of the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function that is deemed essential to the agency's mission.

- 34.1.4.4 Selection: When selecting employees to receive loan repayment benefits, the agency must adhere to merit system principles and take into consideration the need to maintain a balanced work-force in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

Article 35

Moves and Work Space Changes

35.1 Scope

This Article covers changes to office space and physical moves of employees, including moves resulting from reorganizations. Other aspects of any reorganization will be subject to the notice and bargaining requirements of Article 42, Mid-term Bargaining.

35.2 Work Space Assignment

- 35.2.1 If an office or cubicle work station becomes vacant, only those employees who would receive a significant improvement in their work space will be eligible to move into the vacant space.
- 35.2.2 “Significant improvement” is defined as (1) moving from a cubicle to an enclosed office; (2) moving from an interior work space (cubicle or office) to a window work space (window or patio cubicle office); (3) an increase in the size of the employee’s work space of at least 15%; (4) moving from an office or cubicle with a column to one without a column and that is of comparable or larger size; (5) a move which will result in a material improvement in the employee’s productivity; or (6) any other employee request that management and the Union mutually agree constitutes a significant improvement.
- 35.2.3 Selection of vacant work space from among eligible employees will be conducted pursuant to the current procedures agreed upon by the Parties for that office. Any changes to these procedures are subject to agreement by the Parties, or if no agreement is reached, bargaining in accordance with 35.5, below.
- 35.2.4 If an employee enters an organization through an individual personnel action (i.e., not as a result of a reorganization or general move), he/she shall be placed in the best and most appropriate available office space that is not otherwise subject to assignment to another employee under the current procedures agreed upon by the Parties.
- 35.2.5 An employee who teleworks 100% of the pay period for more than 90 consecutive calendar days is not entitled to an assigned work space at Agency-provided facilities unless and until the employee returns to working at Agency-provided facilities at least part of the pay period.
- 35.2.6 An employee who teleworks three or more days per workweek, or 60% or more of the pay period if the employee is part-time, but less than 100% of the pay period, for more than 90 consecutive calendar days is not entitled to choose a workstation. Instead, after consultation with the Union, management will assign the employee a workstation. This provision also applies to part-time employees who work less than three days each workweek, or less than 60% of the workweek.

- 35.2.7 An employee who is on rotation or detail for more than 90 consecutive calendar days is not entitled to retain an assigned work space at both the employee's home office and the office at which the employee is serving the rotation or detail. However, the employee shall retain his/her assigned workspace at the home office unless the agency has demonstrated a need for the space. While such space is retained, it may be occupied by another employee if needed during the original employee's absence. Consecutive calendar days shall be counted beginning when the employee begins the rotation or detail. Any extension of the rotation or detail, or any new rotation or detail to another office, shall also be counted towards the consecutive calendar days if the employee begins the extension or new detail or rotation within 20 calendar days of ending the prior rotation or detail.

35.3 Meetings

Whenever management holds a formal meeting, as defined by 5 U.S.C. 7114(a)(2)(A), with employees concerning a move or reorganization, NTEU will be provided notice and an opportunity to attend and address employees in accordance with Article 4, Union Rights and Responsibilities, Section 4.3.

35.4 Duty Time

A reasonable amount of duty time shall be granted to affected employees to meet with Union officials concerning matters under this Article. Employees must obtain management approval for such purposes. If a request for duty time for matters under this Article is denied, an explanation for the denial shall be provided.

35.5 Union Notification and Bargaining

NRC agrees to notify the Union in writing of plans to move, and of changes in personnel policies and practices as the result of a move that is not otherwise specifically covered by the preceding sections of this Article. The NRC agrees to notify the Union of plans to relocate unit employees as soon as possible, but at least 15 days in advance of the proposed date of implementation. However, in the case of an operational necessity (i.e. during an emergency or consistent with the necessary functioning of the Agency), the Agency shall advise the Union in writing of the nature of the necessity and provide the Union with as much reasonable advance notice of the intended change as practicable, and the Union may pursue whatever course(s) of action as may be available under law, rule, or regulation.

Where appropriate, the following information will also be provided:

- 35.5.1 A description of the change, including any proposed floor plan;
- 35.5.2 An explanation of why the change is necessary;
- 35.5.3 An explanation of how the change will be implemented;
- 35.5.4 A description of adverse impact on bargaining unit employees which management anticipates;
- 35.5.5 A proposed date of implementation;

- 35.5.6 Management may provide, at its discretion, a listing of alternatives to the proposed action that were considered.
- 35.5.7 The Union will have 10 workdays from receipt of notice from the Agency in which to invoke its right to negotiate the proposed change(s). These negotiations will be conducted in accordance with Section 42.3, unless mutually agreed upon alternatives are established.

Article 36

Day Care

36.1 Day Care Facility

The NRC agrees to make a concerted effort to provide space for a day care facility in Headquarters. If the Agency proposes changes to the amount of space, it shall provide NTEU with notice and the opportunity to bargain, following the procedures set forth in Article 42 (Mid-term Bargaining). In accordance with GSA regulations, NRC employees will be provided priority for slots in any day care facility in NRC space.

36.2 Child Care Subsidy

The NRC will provide child care subsidies to employees in accordance with the parties' Memorandum of Agreement.

Article 37

Physical Fitness Activities

37.1 Policy and Purpose

Exercise and physical fitness activity contribute positively to the overall health and well-being of NRC staff. To encourage continued and increased employee participation in physical fitness activities and expand employees' options for such activities, employees may elect, subject to supervisory pre-approval, to schedule fitness activities for a period not to exceed 90 minutes during any part of the workday. Business needs that emerge prior to or during the scheduled fitness activity will take priority, and participation in such activities must not adversely interfere with work requirements or agency operations. Both supervisors and employees must consider this when scheduling physical fitness activities.

37.2 Procedures and Guidance

- 37.2.1 NRC Form 689, Physical Fitness Schedule, will be used to account for the hours each day and to provide a record for the supervisor. Time taken for these activities is to be made up at the beginning and/or end of that same workday. Time added to the beginning or end of the workday may not extend the day beyond the established hours of the agency; i.e., 6:00 a.m. to 6:00 p.m. in headquarters. Employees must continue to comply with appropriate Federal time and attendance controls, and ensure that such absences from the worksite for physical fitness activities are properly recorded and reviewed by their supervisor.
- 37.2.2 Normal leave procedures may also be used for participation in physical fitness activities during the workday if the employee does not wish to make this time up during that same workday.
- 37.2.3 Engaging in a physical fitness activity under this article does not require employees to go to a fitness facility or participate in any organized program.

Article 38

Health and Safety

38.1 Safe and Healthy Environment

NRC will provide a safe and healthy environment for employees in accordance with the standards of the Occupational Safety and Health Administration which are applicable to office building structures.

- 38.1.1 The NRC will establish Joint Labor-Management Occupational Safety and Health Committees to function as described in NRC Management Directive 10.130.

38.2 Reporting of Unsafe Conditions

Employees are encouraged to report any unsafe or unhealthy practice, equipment or condition which might represent a health and safety hazard to the proper officials as described in NRC Management Directive 10.130 and to the Union. The Union, if so notified, agrees to promptly relay all such complaints to the NRC. Once the NRC has been notified of a potential health or safety problem, the NRC will invite the Union to participate in meetings where bargaining unit employees are in attendance. The NRC agrees to keep the Union apprised of efforts to resolve the problem.

38.3 Employee Request for Ruling or Grievance

If an employee believes that work is being required under conditions which are unsafe or unhealthy beyond the normal hazards inherent in the operations in question, he/she may request a ruling from the NRC and/or have the right to file a grievance.

38.4 Employee Departure Due to Unsafe or Unhealthy Conditions

When there is exposure to an unsafe or unhealthy condition which requires immediate solution and it is not possible to obtain NRC concurrence beforehand, then the employee may, at his/her discretion, leave his/her duty station, so notify the NRC, and hold himself or herself available for work under appropriate working conditions. The parties recognize and agree that an employee's departure from his/her duty station without supervisory approval will occur only for unusual situations of extreme hazard. This provision does not intend to sanction insubordination or an action which would constitute a violation of 5 U.S.C. 7311 and 18 U.S.C., 1918, which prohibit strikes. The parties further recognize that the action of any employee in leaving his/her duty station based on an alleged safety or health hazard without supervisory approval will be reviewed by NRC to assure that such action was reasonable under the circumstances of the case. Any employee found to take such action without reasonable cause may be subject to disciplinary action and/or the facts of the case may be referred to the Department of Justice for prosecution under 18 U.S.C., 1918.

38.5 Annual Building Inspections

Each office building occupied by bargaining unit employees will be inspected for health and safety at least annually. More frequent inspections may be conducted in all workplaces where there is an increased risk of injury, illness, or accident due to the nature of the work performed therein. A Union representative from the Joint Committee will be given an opportunity, on official

time, to accompany the NRC Safety Inspector on initial inspections and any official NRC follow-up inspections.

38.6 Posting of Evacuation Plans

In each principal office building occupied by NRC employees, there will be posted in a conspicuous location, a diagram showing the proper means of evacuating that building in the event of an emergency.

38.7 Health Services or First Aid

- 38.7.1 In each office building which is the official duty station of at least five employees, NRC will provide at least one first aid kit (a 16-unit kit as defined by the Red Cross) of sufficient size to permit first aid to be rendered to injured employees and designate an individual to maintain each kit. Persons designated to maintain first aid kits will be given proper training in such maintenance. The names of designated employees shall be posted in reasonable places along with the location of the first aid kits.
- 38.7.2 Subject to budgetary constraints, health services will be provided to employees in accordance with NRC Management Directive 10.122, Employee Health Services Program.
- 38.7.3 The NRC will continue its current practice of encouraging and publicizing the availability of Cardiopulmonary Resuscitation Training (CPR). The names of all employees who are trained in CPR will be communicated to all employees.

38.8 Employee Health Maintenance Exams

The NRC will attempt to provide employee health maintenance examinations, and appropriate examination for diabetes, high blood pressure, colon/rectal cancer, cancer screening for males and females, hearing and vision, tuberculin test, immunization, and allergy shots. It is understood, however, that NRC may be constrained for budgetary reasons or by space limitation.

38.9 Excused Absence to Assist Other Employees

When it is necessary for an employee to leave work and return home because of illness or incapacitation, and there is reasonable cause to believe the employee is unable to return home safely by himself or herself, the NRC will assist in locating another employee to help the sick employee return to his/her residence. The NRC will allow a reasonable amount of excused absence, without charge to leave, to the employee who assists the sick employee to return to his/her residence.

38.10 Availability of Health Plan Information

NRC shall notify employees and the Union as to where employee health plan information is available on the internet, with a link to this site.

38.11 Notice of Exposure

As soon as NRC is made aware that any employee may be exposed to any toxic or hazardous substance listed in OSHA Standard 1910.1000 in an amount or for a period of time that may exceed the ceiling value or time weighted average set forth for that substance in Standard

1910.1000, the affected employee will be notified. The notice will include any warning statements which NRC has received from the manufacturer of the substance or the organization which is responsible for the exposure.

38.12 NRC Furnished Reports

NRC will furnish to the Union a copy of all health and safety reports it is required to file with any other Federal agency, simultaneously with the filing of such reports. NRC will not, however, furnish to the Union copies of any report of motor vehicle accidents or accident giving rise to compensation claims.

38.13 Elevator Shutdown

The parties agree that any elevator in any NRC building which malfunctions to the extent that individuals have been trapped in the elevator car shall be shut down and shall not be used by employees until the elevator has been rendered operative.

38.14 Smoking Restrictions

In accordance with government-wide regulations and in recognition of the adverse health effects associated with "second hand" smoke, the NRC shall restrict smoking to designated areas outside of NRC buildings. The Parties will negotiate changes in the determination of designated areas for each NRC building in accordance with the procedures of Article 42, Mid-term Bargaining.

38.15 Safety Equipment

An employee may request that the Agency provide appropriate safety equipment, e.g., a hard hat, safety shoes, safety glasses, hearing protection, etc. If the employee's request is denied, such denial will be provided in writing and explain the basis for the denial.

Article 39 Parking

39.1 Federal Regulations

Assignment of parking spaces available to NRC will be governed by applicable OMB and GSA regulations.

39.2 Parking Changes

Should the number of parking spaces available to NRC substantially increase during the duration of this Agreement, or for any proposed changes in parking policies or parking rates, the Union may reopen this Article within a reasonable time unilaterally by written notification. Negotiations would be limited to the facility where the change occurs.

39.3 Office Relocation

The NRC has determined that when an office that has provided free or subsidized NRC employee parking is being relocated, the NRC will include equivalent parking in the request for space submitted to GSA. Additionally, the NRC shall file a request for ample NRC parking with all applications for leased space submitted to GSA.

39.4 Allotment of Parking Spaces

The following procedures shall govern the allotment of parking spaces at the NRC Headquarters locations for spaces not required for official needs.

- 39.4.1 The parties agree that parking permits shall be dispensed based upon five separate priority groupings of employees: employees with disabilities, executives, carpools, Operations Officers, and single occupant vehicles. The parties further agree that the number of parking spaces set aside for executives shall not exceed 55 and that persons applying for a space reserved for employees with disabilities must produce medical evidence concerning how their disability impacts on mobility. In the event the agency must exceed the 55 space allocation, it will negotiate the impact and implementation of the decision. The parties agree that parking permits shall be approved on a six month (semi-annual) basis. Those employees eligible for parking permits will be issued a single occupant vehicle parking permit annually, provided their payments are current. Payment of parking fees will be made through payroll deduction.
- 39.4.2 The parties agree that a carpool means a group of two or more persons, the principal member of which is an employee of NRC and who regularly uses motor vehicle for transportation to and from work on a continuing basis. The relationship of carpool members to each other is irrelevant. All members of a carpool must complete and sign a form giving their name, home address, work address, and work and home telephone numbers. The NRC shall review this information to assure that carpools have at least 2 individuals participating.
- 39.4.3 Parking spaces available for employee parking permits will be allocated in the following order of priority:

- 39.4.3.1 employees with disabilities
- 39.4.3.2 executives (a maximum of 55)
- 39.4.3.3 carpools and vanpools
- 39.4.3.4 Operations Officers
- 39.4.3.5 single occupant vehicles

All parking permits which are not dispensed to NRC employees under categories 39.4.3.1 through 39.4.3.5 will be dispensed under the criteria described in Section 39.4.4.

- 39.4.4 All applicants for single occupant vehicle parking spaces at an NRC Headquarters location shall be issued parking permits in order of their service time with the NRC/AEC, with employees having greater service time appearing at the top of the list. Employees that have AEC service time and/or prior periods of NRC service must provide documentation of that service time with their application if they want that service time credited toward parking priority.
- 39.4.5 A waiting list for parking will be maintained of employees (including new employees and those transferring into Headquarters) who submit a timely application. The waiting list will be maintained in the same order as listed in 39.4.3. As spaces become available (e.g., through retirements or transfers), employees will be offered available spaces on a monthly basis based on their position on the waiting list.
- 39.4.6 Additional spaces may also be made available for parking permits through a reduction in the number of spaces available for daily parkers. A maximum of 25 spaces will be reserved for daily parkers.
- 39.4.6 To the extent practicable, the agency will offer employees a permit for motorcycle parking (limited to areas designated for motorcycle parking) at one-half of the rate for single- occupancy vehicles.
- 39.4.7 If a representative of NTEU needs to attend a meeting to conduct representational business, NTEU may request visitor parking for that representative. Such visitor parking can be arranged, on a first-come, space available basis, free of charge for representatives of NTEU. NTEU must request such parking through the Agency's visitor request system the day before the scheduled meeting to permit adequate notification to the operator of the parking garage. All visitors must be escorted while in the building.
- 39.4.8 The agency will notify NTEU, as soon as practicable, of any significant reduction in the number of single occupant vehicle parking permits available to employees.

39.5 Parking Procedures

NRC employees who receive a parking permit will be provided with the rules and procedures pertaining to their garage, including the criteria for designation of reserved spaces. Any changes to the rules and procedures will be provided to the NTEU for negotiation, as appropriate.

Employees are responsible for properly displaying their parking permit. Vehicles without properly displayed permits may be treated as unauthorized vehicles by the parking operator. Failure to follow parking rules and procedures may result in suspension or termination of parking privileges.

Article 40

Travel

40.1 Scheduling of Travel

The NRC agrees, to schedule, to the maximum extent practicable, all employee travel to occur during the normal duty hours of the employee traveler. Time spent in travel status away from the employee's official duty station outside the days and hours of the employee's basic or extended workweek is considered "duty time" and the employee is entitled to be paid at the appropriate rate of premium pay when such travel is officially ordered or later approved and the travel:

- 40.1.1 involves the performance of actual work while traveling; or
- 40.1.2 is incident to travel that involves the performance of work that can only be performed while traveling; or
- 40.1.3 is carried out under arduous conditions; or
- 40.1.4 results from an event which could not be scheduled or controlled administratively, that is, results from unforeseen circumstances or an event which is scheduled or controlled by someone or some organization outside the Executive Branch of the Federal Government.

If circumstances require the employee's presence on Monday too early to permit travel on that day, the employee may request permission to travel on the preceding Friday in lieu of traveling on Sunday. The supervisor will grant or deny the request subject to workload considerations. If Friday travel is approved, subsistence reimbursement will be allowed to start with the departure time, but will be limited to that which would have been payable if the employee traveled on Sunday. Employees required to travel outside of normal duty hours shall upon request receive a written explanation as to why such travel is required.

40.2 Travel Advances

NRC employees are authorized to obtain travel advances for out-of-pocket expenses by making cash withdrawals using their Government travel charge card.

40.3 Travel Reimbursement

The NRC agrees to reimburse employees in accordance with the Federal Travel Regulations (FTR) and NRC Management Directive 14.1, Official Temporary Duty Travel."

40.4 Actual Subsistence Expenses

Actual subsistence expenses up to the maximum permitted by law will be allowed when the traveler's conditions meet the requirements established by the FTR and NRC MD 14.1.

40.5 Use of Privately-Owned Vehicle

To the extent provided by law and regulation, an employee will have the option to use a privately-owned vehicle for official travel. When the law or regulation authorizes the use of a privately-owned vehicle for official business, the employee providing such vehicle will be reimbursed at the maximum rate allowable by applicable law and Government-wide regulation.

When an employee is delayed while in official travel status by reason of the breakdown of a privately owned vehicle, the use of which was determined to be advantageous to the Government, his/her per diem allowances will not be reduced and the period of delay will not be charged to leave if the period of delay was reasonable and the traveler's action following the breakdown accords with administrative instructions or was administratively approved.

40.6 Returning To Permanent Duty Station While on Travel

An employee who is assigned to training or duty away from his/her regularly assigned post of duty, and who elects to return to his/her permanent duty station during nonwork days, will be reimbursed, as follows:

- 40.6.1 For the employee entitled to per diem, the reimbursement allowable for the round-trip transportation and per diem en route may not exceed the per diem and any travel expense which would have been allowable had the traveler remained at this temporary duty station; or
- 40.6.2 For the employee entitled to actual subsistence, the maximum reimbursement allowable for the round trip transportation and actual subsistence en route shall be the necessary travel and subsistence expense which would have been allowable had the traveler remained at this temporary duty station.

40.7 Illness During Travel Status

When the employee in a travel status becomes ill, or is injured not due to his/her own misconduct and is expected to remain so for any significant length of time, NRC will pay per diem normally not to exceed 14 days and transportation in connection with returning that employee to his/her home or normal post of duty area as promptly as possible. However, NRC may approve a longer period as it deems necessary under the circumstances in a particular case.

40.8 Travel Regulations

Links to the FTR's and NRC MD 14.1, Official Temporary Duty Travel, relevant negotiated agreements (including the MOU on eTravel), and other documents relating to travel policies (including "yellow announcements" will be available on the NRC website. Employees should direct all inquiries regarding travel authorizations and vouchers to the Travel Services Team, Division of the Controller, Office of the Chief Financial Officer. In addition, the NRC shall advise employees through agency-wide e-mail of revisions to NRC MD 14.1 or of any other significant changes in travel laws or regulations, which shall be permanently posted on the Agency website.

40.9 Notice of a Difference Between Travel Voucher Claim and Reimbursement Amount

The NRC agrees to notify the employee within 10 work days from the date of receipt by the Department of Interior National Business Center of his/her travel voucher if any claims cannot be paid in full. Such time shall be automatically extended if the employee furnishes additional information to supplement the travel voucher. Such notification shall be shown in the voucher and shall clearly identify the NRC's basis for denial. If, after being notified that a claim cannot be paid in full, the employee submits additional information to support the claim, NRC shall notify the employee within a reasonable period of time whether such additional information is sufficient to support the payment of the claim in full.

If at any time an apparent overpayment on a travel voucher is discovered, the Agency shall notify the employee and, if appropriate, request the employee to submit additional information to support the amounts previously claimed and paid on the travel voucher. If the Agency determines that there is still an overpayment to the employee after the review of the additional information, or absent submission of additional information, the employee may request a waiver in whole or in part of the overpayment, consistent with applicable laws and regulations. Such a request may be made if the employee agrees with the Agency's determination but believes that extenuating circumstances exist to warrant a waiver. The NRC may grant the waiver of overpayment only if it determines that collection of the overpayment from the employee would be against equity and good conscience and not in the best interest of the United States.

For claims without overpayment, where the employee agrees with the NRC determination but still believes that extenuating circumstances exist to support his/her claim, the employee may, consistent with applicable laws and regulations, submit a claim for adjudication to the GSA Civilian Board of Contract Appeals with a copy of the claim to the Agency. Such claims are neither grievable nor arbitrable.

If the employee disputes the Agency's determination on any travel voucher claim, the employee may, consistent with applicable laws and regulations, submit a claim for adjudication to the GSA Civilian Board of Contract Appeals with a copy to the Agency. Such claims are neither grievable nor arbitrable.

40.10 Reimbursement for Parking

The NRC will, to the fullest extent permitted by law and regulation, reimburse employees for reasonable parking expenses when the employee's use of his/her car on official business has been approved. Such reimbursement does not cover the employee's normal everyday parking expenses.

Article 41

Labor Management Relations and Partnership Committees

41.1 Establishment of Partnership Committees

The Parties have established Labor-Management Relations Partnership Committees to provide the Union with an opportunity to provide pre-decisional input on matters outside the statutory scope of bargaining and to address issues of concern not covered by this Agreement. Within 60 days following the effective date of this Agreement, the Parties will meet to review existing charters, ground rules and guidelines regarding the operations of these committees, and make such changes as they deem necessary. These committees are intended to supplement, not replace, the parties' statutory obligations.

41.2 Subcommittees

The Parties agree to establish subcommittees to deal with specific areas of concerns requiring additional focus, including:

- 41.2.1 The Joint Labor-Management Occupational Safety and Health Committee established under Section 38.1.1; and
- 41.2.2 An EEO subcommittee to discuss EEO-related matters, including the Affirmative Action Plan and the Upward Mobility Plan. This subcommittee will have access to relevant data, including the data currently provided to the Agency's EEO Advisory committees and data concerning the harassment program.

41.3 Joint Labor/Management Day Care Committee

The NRC and NTEU agree to establish a joint Labor-Management Day Care Committee. The Committee shall be composed of 8 headquarters employees; one-half will be appointed by the Union and one-half by the NRC. One member representing the Union and one representing NRC will be appointed for a 2 year term. The remaining members will be appointed for a term of 1 year.

41.3.1 Selection of Chairperson and Vice Chairperson

The chairperson and vice-chairperson will be selected from among committee members, and their selection will be made by the Union and management on a rotating annual basis. The first year the chairperson will be selected by the party who wins a toss of the coin, and the vice-chairperson will be selected by the party losing the toss. In the second year, the selecting parties will be reversed, and so on.

41.3.2 Committee Function

The function of the committee will be to jointly advise management and NTEU on matters concerning day care facilities (both on site and off site).

41.3.3 Notice of Committee Role and Function

Following the appointment of committee members, the agency will issue a joint announcement concerning the committee's role and function.

41.3.4 Recommendation of Day Care Committee

The committee may submit recommendations on matters concerning day care options jointly to the Director, Office of Human Resources and NTEU as it (the committee) deems appropriate.

Article 42

Mid-term Bargaining

42.1 Application

The NRC or the Union may wish to negotiate proposed changes created by new laws, changes in existing laws or the agency's desire to establish or change any personnel policy, practice or condition of employment. Notice and bargaining over such changes will be conducted pursuant to the terms of this Article. Term contract negotiations and mid-term contract reopeners are conducted in accordance with Article 57, Duration and Termination of Contract.

The Union recognizes that the Agency has the right to exercise management rights as set forth in the Statute during the life of this Agreement and, in accordance with applicable law, rule, regulation, and this Agreement, to initiate changes that may affect conditions of employment of bargaining unit employees, including changes in personnel policies or practices or other matters affecting working conditions not covered by this agreement.

The Agency recognizes that the Union has the right to bargain over the substance of negotiable changes in personnel policies and working conditions, the procedures which the Agency will observe in exercising management rights, and/or appropriate arrangements for employees adversely affected by the exercise of the Agency's management rights. This in no way waives any of the Union's rights to negotiate to the maximum extent allowable by law nor does it require the Agency to bargain the substance of permissive subjects of bargaining.

42.2 Notice

When the NRC wishes to change any personnel policy, practice, or condition of employment not covered or controlled by the terms of this Agreement, the NRC will notify the President of NTEU Chapter 208, in writing. This notice will be sent to the Union at least 15 workdays prior to the proposed date of implementation; however, in the case of an operational necessity (i.e. during an emergency or consistent with the necessary functioning of the Agency), the Agency shall advise the Union in writing of the nature of the necessity and provide the Union with as much reasonable advance notice of the intended change as practicable, and the Union may pursue whatever course(s) of action as may be available under law, rule or regulation.

This notice will include the following:

- 42.2.1 A description of the change;
- 42.2.2 An explanation of why the change is desired or required;
- 42.2.3 An explanation of how the change would be implemented;
- 42.2.4 A description of probable impact on employees, if appropriate; and
- 42.2.5 An indication of the specific date (if any) the Agency intends to implement the proposed change.

The Union will have 10 workdays from receipt of notice from the Agency in which to invoke its right to negotiate the proposed change(s). These negotiations will be conducted in accordance with Section 42.3, unless mutually agreed upon alternatives are established.

42.3 Ground Rules

The ground rules for bargaining covered by this Article are:

- 42.3.1 Negotiations shall occur during regular administrative work days. The schedule for bargaining will be by mutual agreement. However, unless mutually agreed otherwise, the Parties will normally meet and begin bargaining within 10 work days after receipt by the Agency of the Union's request to bargain.

At the Union's request, the first bargaining session will begin with a management briefing on the proposed change. The Union must submit written proposals no later than the second bargaining session, if more than one bargaining session is required to reach agreement. Except when required by operational necessity, the Agency will not implement the proposed change prior to completing bargaining. Operational necessity will only be invoked during an emergency or when consistent with the necessary functioning of the Agency. If the Agency implements a change due to operational necessity prior to the completion of bargaining, bargaining will continue on an expedited basis and the resulting agreement will be implemented as agreed upon. Both parties will cooperate in scheduling bargaining sessions and will not delay the bargaining process. It is expected that bargaining in most circumstances should be completed prior to the anticipated implementation date.

Where the Union has had pre-decisional notice and the opportunity to discuss the matter in a pre-decisional forum, the Union will submit written proposals within 10 work days from the date of receipt of the formal notification.

The initiation of proposed changes by the Agency under this Article shall not preclude either Party from submitting proposals or counterproposals related to the change during the course of negotiations.

- 42.3.2 The NRC will provide a site for negotiations, if feasible. If not, negotiations will take place at a mutually agreed upon site.
- 42.3.3 The parties agree that proposed changes which apply on a nationwide basis shall be negotiated at the NRC Headquarters Offices.
- 42.3.4 Upon mutual agreement, proposed changes which apply only within one Region will be negotiated at that Regional Office. If during negotiations, it becomes apparent that the issue has generic implications or an additional region or headquarters will be affected, negotiations may stop and be reopened under 42.3.6.
- 42.3.5 Proposed changes which apply only to the NRC Headquarters Offices will be negotiated at NRC Headquarters.

- 42.3.6 Proposed changes which apply to more than one Regional Office or to the Headquarters and one Regional Office--but are less than nationwide in application will be negotiated at NRC Headquarters.
- 42.3.7 The number of employees representing the Union for whom official time is authorized under this Section shall not exceed three (3) employees. In circumstances where an exclusively regional matter being negotiated affects more than one (1) region, the NRC shall pay travel and per diem for one (1) regional Union official, for one (1) single or multi-day session, in accordance with NRC travel regulations. In situations where there is a nationwide matter that has greater impact on regional employees, the agency will pay travel and per diem for no more than one (1) regional Union official as specified above. Disagreements as to payment of travel and per diem in these instances shall not serve to delay the negotiations.
- 42.3.8 All time spent in bilateral negotiations on these issues, including caucuses and impasse resolution processes, shall be official time for the Union representatives.

42.4 Impasses

Either party may request the assistance of the Federal Mediation and Conciliation Service (FMCS) to resolve an impasse in bargaining. Upon certification by the Federal Mediation and Conciliation Service of an impasse between the parties in connection with these negotiations, the dispute shall be forwarded to the Federal Service Impasses Panel (FSIP) for resolution. Either party may unilaterally request of the FSIP special expedited procedures including arbitration in settlement of these impasses. The FSIP will determine which, if any, special expedited procedures will be used.

42.5 Agreements

- 42.5.1 All agreements are tentative until confirmed in writing. Unless otherwise agreed, agreements reached will be reduced to writing and executed by both Parties, and will set forth an effective date and duration (even if indefinite). Such agreements are binding on the parties, subject only to statutorily required Agency Head review. Effective dates will not be set earlier than 31 days following signature by the parties, to allow for Agency Head review; however, if Agency Head approval is obtained sooner, the Parties may agree to modify the effective date.
- 42.5.2 Agreements negotiated pursuant to this Article will be subject to Agency head approval pursuant to 5 U.S.C. § 7114(c). In the event of disapproval, the Parties, by mutual agreement, may implement the provisions of the agreement that were not disapproved. If the Union elects to renegotiate the disapproved provisions of the agreement, or the entire agreement, it will notify the Agency within 15 work days after receipt of the Agency head's disapproval. Proposals declared non-negotiable that are subsequently found to be negotiable will be timely negotiated at the request of either Party.

- 42.5.3 Copies of agreements executed pursuant to this Article will be made available to bargaining unit employees by posting on the Agency's intranet site. The agreement will be posted, and employees will be notified of the change and of the agreement, prior to the effective date.

42.6 Information Requests

Whenever the Union requests documents for the purpose of bargaining over changes in personnel policies, practices, or conditions of employment not otherwise covered by this Agreement, the time frame for the Union to respond shall be extended day for day, from the time the request is received until the NRC either denies the request or provides the documents, whichever is appropriate. This does not apply to information that has recently been provided to the Union or is readily available on agency websites.

Article 43

Access to Personnel Records

43.1 Access to Records

Each employee and/or the employee's representative (designated in writing) shall, upon written request and proper identification, be granted access to any record(s) pertaining to the employee in accordance with the Privacy Act or other applicable law or regulation. Such access will take place in the presence of the individual(s) having official custody of the record.

43.2 Copies of Documents

Copies of documents made available under Section 43.1 may be furnished to the employee and/or designated representative upon written request by the employee. Charges shall be in accordance with applicable regulations.

43.3 Privacy Act

Any record which is not available to the employee or his/her representative (designated in writing) for inspection and review will not be made available to any unauthorized person(s) for inspection, review, or duplication. Such information will be made available to authorized persons only for official use as provided for in the Privacy Act of 1974.

43.4 Official Personnel Folders

It is agreed that Official Personnel Folders (OPF's) and other personnel records will be maintained in accordance with applicable law and regulation, including the Privacy Act of 1974. The NRC will purge records in accordance with any standard set forth in law and regulation.

43.5 Employee Records Maintained By Supervisor

In the event a supervisor decides to maintain a work folder on an employee, it shall be limited to documents and records pertinent to the employee's performance and conduct. Such document and records, both positive and negative, should be provided to the employee as feedback on a timely basis, in order to reinforce positive performance or conduct or to correct deficiencies as soon as possible. Any adverse document or record concerning performance or conduct may not be used as documentation for a performance rating or disciplinary/adverse action, unless the employee has been given 5 work days to review and comment on the document or record prior to its use. This section does not apply to a supervisor's personal notes or "memory joggers." Memory joggers are private notes retained and used for personal use of the manager to recall events or aid memory. Memory joggers may be prepared, retained or discarded at the manager's discretion. Memory joggers shall not be provided to any person.

43.6 Union Requests for Documents

The following governs Union requests for documents under 5 U.S.C. 7114(b)(4).

- 43.6.1 NRC agrees to provide the Union documents appropriately requested under 5 U.S.C. 7114(b)(4) to the extent consistent with law or regulation, including the Privacy Act. The Union will be advised by NRC within ten calendar days of receipt of the request as to whether and to what extent the requested documents can be released. The Union will receive the documents within twenty-five (25) calendar days of the request. Exceptions to the 25 day requirement shall be granted by the Union for good cause shown.

Article 44

Disciplinary Actions

44.1 Definition

This Article covers suspensions of fourteen days or less, letters of reprimand and memorandum of admonishment.

44.2 Exclusion for Oral and Written Counseling

Oral and written counseling are not considered discipline, and are therefore not covered under this article. The purpose of oral and written counseling is to address misconduct where appropriate at the least severe level (i.e. without discipline). Although oral and written counseling are not considered a first disciplinary offense under this article, they may be used to show that an employee was put on notice of the misconduct and/or informed of the agency's rules and expectations. Employees shall have the right to respond to written counseling in writing within ten (10) workdays, and any such response shall be kept in the agency's files with the original written counseling. Written counseling will be removed from all agency files in accordance with applicable record retention law.

44.3 Progressive Discipline

The parties recognize that disciplinary actions should normally be progressive in nature if they are to correct an offending employee. However, discipline need not follow any specific sequence. Major offenses may be cause for severe action, including removal, irrespective of whether previous discipline had been taken against the offending employee. The degree of discipline administered will be proportionate to the offense, and consistent for like offenses, and will be considered on a case-by-case basis. The Agency will consider the existence of any aggravating and/or mitigating circumstances, the nature of the position occupied by the employee at issue, and any other factors bearing on the incident(s) or act(s) underlying the action.

44.4 Copies of Evidence Documents

An employee who is the subject of a disciplinary action under this Article will be furnished a copy of the materials relied upon to support the reasons for the proposed disciplinary action.

44.5 Favorable Information in Investigative Reports

If the proposed disciplinary action is based on an investigative report(s), the portions of the report(s) which relate to the proposed disciplinary action and are favorable to the employee will be furnished to the employee upon request.

44.6 Arbitrator Request for Documents

If it is demonstrated to an arbitrator that favorable information described in Section 44.5 can be made available but has not been furnished by the NRC, upon request of the arbitrator, the complete report will be furnished to the arbitrator for an in camera inspection, except such portions of the report which contain classified, proprietary or other information, the disclosure of which is restricted by law.

44.7 Notification of Suspension of 14 Days or Less

- 44.7.1 When the NRC proposes a suspension of 14 calendar days or less, the employee is entitled to:
- 44.7.1.1 an advance written notice of at least 15 calendar days stating the specific reasons for the proposed action;
 - 44.7.1.2 reasonable time; but no less than 7 calendar days from receipt of the advance written notice to answer orally or in writing and to furnish affidavits and/or other documentary evidence in support of the answer;
 - 44.7.1.3 a copy of the materials relied upon to support the reasons for the proposed suspension;
 - 44.7.1.4 be represented by a Union representative;
 - 44.7.1.5 a reasonable amount of duty time to prepare and present his or her oral and/or written response; and
 - 44.7.1.6 a written decision and the specific reasons therefore at the earliest practicable date.
- 44.7.2 Where an employee chooses to make an oral reply, the reply will be heard by an official or designee at a higher level than the one who proposed the action.
- 44.7.3 The final decision in any action covered by this Section must be made by a higher level official or designee other than the one who proposed the action, except that if the proposing official is at the Office Director or higher, the decision may be made by another official at the same level or higher. The final decision letter will contain the specific reasons for the decision and will be issued at the earliest practicable date after receipt of the employee's oral and/or written reply or after the date that such reply would have been due. The decision shall inform the employee of his/her appeal rights.
- 44.7.4 The NRC shall prepare a summary of any oral reply. The employee and his or her representative will be provided a copy of the summary within 6 work days of the oral reply. The employee will have 2 work days to respond with any corrections or clarifications, which will be considered prior to the issuance of the final decision.

- 44.7.5 In arriving at his/her written decision the deciding official shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the employee or his or her representative. If, in arriving at his/her decision, the deciding official considers and intends to rely upon documents not previously known or relied upon by the proposing official, those documents must be given to the employee prior to issuance of the decision. The employee will be permitted a reasonable amount of time to review and respond to this material. Alternatively, management may choose to re-propose an action. The deciding official shall deliver the notice of decision to the employee at or before the time the action will be effective.
- 44.7.6 The decision of the deciding official may be appealed by NTEU pursuant to Article 47, Arbitration Procedures.

44.8 Copies

An employee shall be provided a second copy of the notice of proposed action and the final decision to be provided to his or her Union representative.

44.9 Reprimands or Admonishments

- 44.9.1 A letter of reprimand may remain in an employee's official personnel folder for not more than 2 years from the date of the misconduct. Memoranda of admonishment may remain in an employee's official personnel folder for not more than 6 months from the date of the misconduct.
- 44.9.2 Although the reprimand or admonishment is removed from the employee's Official Personnel Folder, the agency, pursuant to applicable record retention law, will retain the letter and related documentation in the official case file maintained by the Office of the Chief Human Capital Officer. However, once removed from the OPF, the Agency may not use this case file information when considering future discipline except to show that the employee was put on notice of misconduct and/or was informed of the agency's rules and expectations. An employee may request to review the contents of this case file in accordance with applicable law and regulation.
- 44.9.3 An employee receiving a reprimand or admonishment will, upon request, be provided the material which is relied upon to support the reasons for the reprimand or admonishment.
- 44.9.4 A disciplinary action taken under this Section may be appealed only by filing a grievance pursuant to Article 46, Grievance Procedures, of this agreement.

44.10 Information

Every six months, the Agency will provide the NTEU Chapter President with a sanitized list describing bargaining unit disciplinary cases that were closed during the previous six months and the penalties that were imposed.

44.11 Employee Notification of No Action Taken

If management, based on its own inquiry, or based on its review of an investigative report (e.g., an IG report) provided to them, determines that no action shall be taken against the subject(s) of the inquiry or investigation, it shall advise such employee(s) of that outcome within 30 days of management's determination of no action. In this circumstance, an employee is one who had been informed that he/she is the subject of an inquiry or investigation. The letter will not be placed in the employee's Official Personnel Folder (OPF) unless requested by the employee in writing.

44.12 Alternative Discipline

Alternative discipline is an effort, undertaken by the agency, to address employee misconduct using a method other than traditional discipline. Traditional discipline is most often a reprimand, suspension, change to lower grade, or removal based upon the employee having engaged in conduct that impacted the efficiency of the service. Alternative discipline is management taking a different course of action to address the misconduct.

- 44.12.1 Alternative discipline is an optional, non-traditional approach to employee discipline, which provides for a variety of corrective actions. The NRC and the Union encourage the use of alternative approaches to traditional disciplinary actions. The goal of such an approach is to positively change an employee's conduct by offering an alternative means of correcting such conduct. The NRC will publicize to supervisors the benefits of alternative discipline. Traditional discipline once effected shall not be combined with alternative discipline for the same incident and vice versa. Alternative discipline is offered solely at management's discretion. Under no circumstances is alternative discipline required to be used.
- 44.12.2 Alternative discipline may be offered at any point in the disciplinary process, including prior to the issuance of the proposal.
- 44.12.3 NTEU shall be invited to attend meetings between bargaining unit employees and the NRC where alternative discipline is being discussed.
- 44.12.4 NRC and NTEU agree that alternative discipline agreements are not precedential and are excluded from information requests under 5 USC 7114 for the purpose of demonstrating precedent. Alternative discipline agreements will not be placed in the employee's Official Personnel Folder (OPF). Once an alternative discipline agreement has been signed, a copy will be provided to NTEU.

- 44.12.5 Should the employee violate the alternative discipline agreement, the employee will be notified in writing of the violation and that the penalty for the violation as outlined in the alternative discipline agreement will be effected. If the employee disputes whether a violation of the alternative discipline agreement occurred, the employee may file a grievance within ten (10) workdays of receipt of notification on only whether a violation of the alternative discipline agreement occurred. Where mutually agreed to, such disputes may be submitted to expedited arbitration.
- 44.12.6 Any alternative discipline agreement will include a description of the alternative discipline which has been agreed to, and the retention period of the alternative discipline agreement in the Employer's records.

Article 45

Adverse Actions

45.1 Definition

This Article covers removals, suspensions, reductions-in-grade or pay, or furloughs for 30 calendar days or less which are taken to promote the efficiency of the service. Some adverse actions are disciplinary while others are not. The procedures set forth below will be used to effect both disciplinary and non-disciplinary adverse actions.

45.2 Exclusions

The provisions of this Article do not apply to:

- 45.2.1 adverse actions taken against an employee who is serving a probationary or trial period under an initial appointment or a temporary employee (see Article 48);
- 45.2.2 suspension or removal under Section 7532 of 5 U.S.C.;
- 45.2.3 any action initiated under Sections 1215 and 7521 of 5 U.S.C.;
- 45.2.4 a reduction-in-force action;
- 45.2.5 a reduction in grade or removal under Chapter 4303, 5 U.S.C.;
- 45.2.6 emergency suspensions; or
- 45.2.7 disciplinary actions covered under Article 44 (suspensions of 14 days or less, letters of reprimand or memorandum of admonishment), oral or written counseling (oral or written counseling is not considered discipline or an adverse action, and is therefore not covered under this article. Although not covered by this article, such counseling may be considered when taking action under this article.)
- 45.2.8 Oral and written counseling are not considered discipline, and are therefore not covered under this article. The purpose of oral and written counseling is to address misconduct where appropriate at the least severe level (i.e. without discipline). Although oral and written counseling are not considered a first disciplinary offense under this article, they may be used to show that an employee was put on notice of the misconduct and/or informed of the agency's rules and expectations. Employees shall have the right to respond to written counseling in writing within ten (10) workdays, and any such response shall be kept in the agency's files with the original written counseling. Written counseling will be removed from all agency files in accordance with applicable record retention law.

45.3 Progressive Discipline

The parties recognize that disciplinary actions should normally be progressive in nature if they are to correct an offending employee. However, discipline need not follow any specific sequence. Major offenses may be cause for severe action, including removal, irrespective of whether previous discipline had been taken against the offending employee. Consistent with applicable law, in deciding what adverse action may be appropriate, the Agency will give due consideration to the relevance of an aggravating and/or mitigating circumstances. The following factors, included herein for purposes of illustration, are meant to be neither exhaustive nor mechanically applied by management in exercising its discretion to selecting the appropriate penalty:

- 45.3.1 The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical and inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- 45.3.2 The employee's job level and type of employment including fiduciary role, contacts with the public, and prominence of the position;
- 45.3.3 The employee's past disciplinary record;
- 45.3.4 The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- 45.3.5 The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the Employer's confidence in the employee's ability to perform assigned duties;
- 45.3.6 Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- 45.3.7 The notoriety of the offense or its impact upon the reputation of the Employer;
- 45.3.8 The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- 45.3.9 Potential for the employee's rehabilitation;
- 45.3.10 Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment or bad faith, malice or provocation on the part of the others involved in the matter; and
- 45.3.11 The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

45.4 Copies of Documents

An employee who is the subject of an adverse action under this Article will be furnished a copy of the materials relied upon to support the reasons for the proposed adverse action.

45.5 Favorable Information in Investigative Reports

If the proposed adverse action is based on an investigative report(s), the portions of the report(s) which relate to the proposed adverse action and are favorable to the employee will also be furnished to the employee.

45.6 Arbitrator Request for Documents

If it is demonstrated to an arbitrator that favorable information described in Section 45.5 can be made available but has not been furnished by the NRC, upon request of the arbitrator, the complete report will be furnished to the arbitrator for an in camera inspection, except such portions of the report which contain classified, proprietary or other information, the disclosure of which is restricted by law.

45.7 Adverse Action Procedures

When the NRC proposes to take an action covered by this Article, an employee against whom such an action is proposed is entitled to:

45.7.1 An advance written notice of at least 30 calendar days (unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed) stating the specific reasons for the proposed action and providing the employee with a copy of the materials relied upon to support the reasons in the notice of proposed adverse action.

45.7.2 A reasonable time, but not less than 7 calendar days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

The employee shall be provided with a reasonable amount of duty time to prepare and present his/her oral and/or written response.

45.7.3 Be represented by an attorney or other representative:

45.7.3.1 NRC may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or position.

45.7.3.2 The rights of the Union under this Agreement shall not be construed to preclude an employee from:

(a) being represented by an attorney or other representative, other than a Union representative of the person's own choosing; or

(b) exercising appellate rights established by law, rule, or regulation.

- 45.7.4 A written decision and the specific reasons therefore at the earliest practicable date. The decision shall inform the employee of his/her appeal rights.
- 45.7.5 Where an employee chooses to make an oral reply, the reply will be heard by a higher level official or designee other than the one who proposed the action who will have the authority either to make or recommend a final decision on the proposed action.
- 45.7.6 The final decision in any action covered by Section 45.7 must be made by a higher level official or designee other than the one who proposed the action, except that if the proposing official is at the Office Director or higher, the decision may be made by another official at the same level or higher. The final decision letter will contain the specific reasons for the decision and will be issued at the earliest practicable date after receipt of the employee's oral reply and/or written reply or after the date that such reply would have been due.
- 45.7.7 The NRC shall make a verbatim transcript for any oral reply under Section 45.7. The employee will be provided a copy of the transcript in those cases where the employee represents him/herself. In those cases where the Union serves as representative, the Union rather than the employee will be provided the copy of the transcript.
- 45.7.8 In arriving at his/her written decision the deciding official shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the employee or his/her representative. If, in arriving at his/her decision, the deciding official considers and intends to rely upon documents not previously known or relied upon by the proposing official, those documents must be given to the employee prior to issuance of the decision. The employee will be permitted a reasonable amount of time to review and respond to this material. Alternatively, management may choose to re-propose an action. The deciding official shall deliver the notice of decision to the employee at or before the time the action will be effective; the notice shall advise the employee of his/her appeal rights, which includes an appeal by NTEU pursuant to Article 47, Arbitration Procedures, as specified in 45.7.9 below.
- 45.7.9 A non-preference eligible employee against whom an adverse action decision has been issued under the terms of Section 45.7 of this Article, who has two years of creditable service, may appeal the decision to the Merit Systems Protection Board, when appropriate, or may, with the consent of NTEU, appeal pursuant to Article 47, Arbitration Procedures, or any other procedure available under law.

A preference eligible employee against whom an adverse action decision has been issued under the terms of Section 45.7 of this Article, who has one year of creditable service, may appeal the decision to the Merit Systems Protection Board, when appropriate, or may, with the consent of NTEU, appeal pursuant to Article 47, Arbitration Procedures, or any other procedure available under law.

45.8 Copies

An employee shall be provided a second copy of the notice of proposed action, and the final decision to be provided to his or her representative.

45.9 Information

Every six months, the Agency will provide the NTEU Chapter President with a sanitized list describing bargaining unit adverse action cases that were closed during the previous six months and the penalties that were imposed.

45.10 Employee Notification of No Action Taken

If management, based on its own inquiry, or based on its review of an investigative report (e.g., an IG report) provided to them, determines that no action shall be taken against the subject(s) of the inquiry or investigation, it shall advise such employee(s) of that outcome within 30 days of management's determination of no action. In this circumstance, an employee is one who had been informed that he/she is the subject of an inquiry or investigation. The letter will not be placed in the employee's Official Personnel Folder (OPF) unless requested by the employee in writing.

45.11 Alternative Discipline

Alternative discipline is an effort, undertaken by the agency, to address employee misconduct using a method other than traditional discipline. Traditional discipline is most often a reprimand, suspension, change to lower grade, or removal based upon the employee having engaged in conduct that impacted the efficiency of the service. Alternative discipline is management taking a different course of action to address the misconduct.

- 45.11.1 Alternative discipline is an optional, non-traditional approach to employee discipline, which provides for a variety of corrective actions. The NRC and the Union encourage the use of alternative approaches to traditional disciplinary actions. The goal of such an approach is to positively change an employee's conduct by offering an alternative means of correcting such conduct. The NRC will publicize to supervisors the benefits of alternative discipline. Traditional discipline once effected shall not be combined with alternative discipline for the same incident and vice versa. Alternative discipline is offered solely at management's discretion. Under no circumstances is alternative discipline required to be used.
- 45.11.2 Alternative discipline may be offered at any point in the disciplinary process, including prior to the issuance of the proposal.
- 45.11.3 NTEU shall be invited to attend meetings between bargaining unit employees and the NRC where alternative discipline is being discussed.

- 45.11.4 NRC and NTEU agree that alternative discipline agreements are not precedential and are excluded from information requests under 5 USC 7114 for the purpose of demonstrating precedent. Alternative discipline agreements will not be placed in the employee's Official Personnel Folder (OPF). Once an alternative discipline agreement has been signed, a copy will be provided to NTEU.
- 45.11.5 Should the employee violate the alternative discipline agreement, the employee will be notified in writing of the violation and that the penalty for the violation as outlined in the alternative discipline agreement will be effected. If the employee disputes whether a violation of the alternative discipline agreement occurred, the employee may file a grievance within ten (10) workdays of receipt of notification on only whether a violation of the alternative discipline agreement occurred. Where mutually agreed to, such disputes may be submitted to expedited arbitration.
- 45.11.6 Any alternative discipline agreement will include a description of the alternative discipline which has been agreed to, and the retention period of the alternative discipline agreement in the Employer's records.

Article 46

Grievance Procedures

46.1 Purpose of Grievance Procedure

The purpose of the grievance procedure is to provide an orderly means for resolving legitimate disputes at the lowest administrative level in a way that is fair and satisfactory to the grievant, the Union, and NRC. The grievance procedure may not be used to address matters which are being pursued with no reasonable expectation of success or for the purpose of delay or harassment. The parties recognize that in the interest of resolving grievances in a timely manner it is important to hold meetings to discuss disputed issues and render decisions as quickly as possible.

46.2 Definitions

- 46.2.1 For the purpose of this Article, "grievance" means any complaint:
- a. by any employee concerning any matter relating to the employment of the employee;
 - b. by the NTEU concerning any matter relating to the employment of any employee; or
 - c. by any employee, the NTEU or the agency concerning:
 - (i) the effect or interpretation, or a claim of breach of this Collective Bargaining Agreement; or
 - (ii) any claimed violation, misinterpretation, or misapplication of any law, rule or regulations affecting conditions of employment.
- 46.2.2 As used in this Agreement, the term grievant refers to the aggrieved party whether a bargaining unit employee, the Union, or the NRC. The term respondent refers to the party against whom the grievance is filed.
- 46.2.3 As used in this Agreement, the term "institutional grievance" refers to any complaint by the Union concerning the effect or interpretation, or a claim of breach of the provisions of this Agreement relating to the rights and benefits that accrue to the Union as the exclusive representative of bargaining unit employees. Grievances on behalf of employees, or that relate to the employment of employees, or that concern any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment of employees are not institutional grievances within the meaning of this procedure.

- 46.2.4 Employees may file a grievance under this Article if they believe the agency has taken, or failed to take, an action that violates executive orders which specifically prohibit discrimination and harassment, although no right of action is created under any EEO or civil rights laws. These executive orders, which amended Executive Order 11478, include but are not limited to

Executive Order 13087, which prohibits discrimination based on sexual orientation,

Executive Order 13152, which prohibits discrimination based on status as a parent, and

Executive Order 13145, which prohibits discrimination based on genetic information.

46.3 Conditions of Employment

For the purpose of this Article, the term “conditions of employment” means personnel policies, practices and matters, whether established by rule, regulation, or otherwise affecting working conditions, except that such term does not include policies, practices and matters:

- 46.3.1 relating to political activities prohibited by law;
- 46.3.2 relating to the classification of any position; or
- 46.3.3 to the extent such matters are specifically provided for by Federal statute.

46.4 Exclusions

The following matters are specifically excluded from the coverage of this Article:

- 46.4.1 any claimed violation of Subchapter III of Title 5 U.S.C., (relating to prohibited political activities);
- 46.4.2 retirement, life insurance, or health insurance;
- 46.4.3 a suspension or removal under Section 7532 of Title 5 U.S.C. (in the interests of national security);
- 46.4.4 any examination, certification, or appointment;
- 46.4.5 the classification of any position which does not result in the reduction in grade or pay of an employee;
- 46.4.6 a binding decision made by an authority outside the NRC;
- 46.4.7 the filling of a position outside the bargaining unit;
- 46.4.8 the determination of the basic qualifications required for a position;

- 46.4.9 non-selection from a list of properly ranked and certified candidates, except if the non-selection is alleged to be based on discrimination or other reason prohibited by statute;
- 46.4.10 the scheduled termination of a temporary appointment;
- 46.4.11 the separation of an employee during a trial period;
- 46.4.12 the placement of an employee on a Performance Improvement Requirements Memo (PIRM);
- 46.4.13 a notice of a proposed disciplinary action or adverse action or any warnings, counseling, or admonishments (written or oral that would not be placed in the employee's Official Personnel File); or
- 46.4.14 removal for medical inability to perform; or
- 46.4.15 any other exclusions specifically provided for by the terms of the Agreement or by law.

46.5 Exclusivity

The grievance procedure applies to and, except as provided in 5 U.S.C. Section 7121(d) and (e), shall be the exclusive administrative procedure for resolving employee, Union and Agency grievances which fall within its coverage. No other process may be established to address employee concerns which fall within the scope of the grievance procedure, except by mutual consent of the Parties. Any matter that falls within the scope of the EEO complaint process may be raised in an EEO complaint or through the negotiated grievance procedure, but not both.

46.6 Joint Filing

Grievances under the terms of this Article may be initiated by bargaining unit employees either singly or jointly or by the Union on behalf of an employee or by the Union or the NRC on their own behalf. When two or more employees file individual grievances involving the same facts, events or the same issues, the grievances may be joined and processed through the grievance and arbitration procedure together by mutual agreement. A maximum of 3 grievants will attend any grievance meeting or arbitration hearing concerning any joint grievance.

46.7 Representation (Employee)

An employee filing a grievance under this Article is entitled to representation by the Union or self-representation. If an employee presents a grievance without Union representation, the Union will be given the opportunity to be present at all meetings between the NRC and the employee regarding the grievance. For such meetings the Union shall be given reasonable advance notice. In all grievance meetings where the Union serves as the representative of the grievant, the time of the meeting shall be mutually arranged. A maximum of 1 Union representative will be allowed to utilize official time to attend the initial Step (Step A) meeting unless the parties mutually agree otherwise. Two representatives shall be authorized official time to attend the final step (Step B) meeting of any grievance unless the parties mutually agree otherwise. One additional steward will be permitted to attend grievance meetings,

as an observer, as part of steward training. More than one additional steward, under these circumstances, may be permitted on an exception basis.

46.8 Representation (Institutional)

If a grievance is initiated by the Union on its own behalf or by NRC, the Union may have a maximum of 2 representatives attend each Step meeting on official time along with a single national union staff representative.

46.9 Duty Time

Grievants will be given reasonable duty time consistent with Section 52.7 of this Agreement to prepare and present their grievances. Requests for reasonable duty time may be denied only if the employee's absence would cause a work interruption or an emergency exists. Employees will provide management with reasonable advance notice of the need for time in excess of 30 minutes so that the time may be scheduled to minimize its impact on the office workload.

46.10 Filing

- 46.10.1 The parties agree that all grievances under this agreement shall have two steps, Step A and Step B. Except as provided in 46.10.2 below, a grievance must be filed with the employee's first-line supervisor, with a copy to the Chief, Policy, Labor and Employee Relations Branch within 15 workdays after the occurrence of the matter out of which the grievance arose, or within 15 workdays after the date the aggrieved should reasonably have been aware of the occurrence of the matter out of which the grievance arose. The date of the occurrence, or date when the aggrieved party reasonably should have become aware of the occurrence, shall not be counted in computing timeliness. Any grievance not filed within the applicable period will not be capable of presentation, or consideration at a later date, unless the parties mutually agree to waive the time limits. For grievances in the regions, a copy must also be filed with the Regional Personnel Officer or Director, Division of Resource Management and Administration, as applicable. Time frames for meetings, etc., will begin with receipt of the grievance by the first-line supervisor. If the Union believes that the first-line supervisor (Step A) or designated Step B official is not an appropriate official to hear the grievance, then the Union representative may suggest alternative step official(s) to the HR representative.
- 46.10.2 For grievances alleging discrimination, the time limits for filing grievances shall be forty- five (45) calendar days. When the employee alleges discrimination under the negotiated grievance procedure, the grievance shall specify the specific nature of the discrimination (for example, race, religion) and the facts upon which the allegation is based as set forth in Section 46.12 "Content."

46.11 Timeliness

The issue of timeliness may be raised by the respondent at the initial step (Step A) with respect to matters relating to the initial filing and at the final step (Step B) with respect to matters occurring since the initial step meeting.

46.12 Content

The grievance must be in writing (or e-mail) and must provide the following information:

- 46.12.1 the date submitted;
- 46.12.2 a description of the alleged violation in sufficient detail to identify the basis of the grievance;
- 46.12.3 references to the appropriate contractual provision, law, rule, or regulation alleged to have been violated;
- 46.12.4 a statement of the remedy sought; and
- 46.12.5 the name of and contact information for the Employer/Union representative handling the matter.

The grievant or his/her representative may amend the grievance to include new issues if, during any step, information is uncovered which indicates the appropriateness of revising the focus of the grievance and this information was not known to the grievant/representative at the time the initial grievance was filed. Such amendment must be in writing (or e-mail) and must be submitted to the appropriate step official. After the final step of the grievance process, the scope and issues may not be amended absent mutual agreement. The final step (Step B) official reserves the right to remand the grievance back to the initial step (Step A) official when the grievance is amended.

46.13 Union and NRC Institutional Grievances

Step officials for institutional grievances filed by the Union or by NRC shall be:

- 46.13.1 The Step A official of the Union shall be the Chapter 208 President; the Step A official of the NRC shall be the Chief Human Capital Officer, Office of Chief Human Capital Officer, or designee.
- 46.13.2 The Step B official of the Union shall be the President of the NTEU, or designee, the Step B official of the NRC shall be the Executive Director for Operations, or designee.
- 46.13.3 Each party shall have the right to legal counsel at the Step A and Step B meetings.

46.14 Step A Guidelines

- 46.14.1 The Step A official will meet with the grievant and the grievant's representative(s), if any, within 10 workdays after the receipt of the grievance, for the purpose of discussing the grievance, unless the grievant has waived his or her right to a meeting. The meeting will provide an opportunity for the grievant to answer any questions which are prompted by the written grievance, to discuss when the matter occurred which gave rise to the grievance and whether the grievance was timely filed, to seek agreement, if possible, on the provision or section of this Agreement or the regulations, policy or procedure which may have been violated, to discuss the substance of the grievance, remedies requested and alternative remedies, if any, and to attempt to resolve the matter to the satisfaction of the grievant and the step official. Recording devices, affidavits, the testimony of corroborating or expert witnesses, the introduction of evidence, rulings on evidence and similar features of an arbitration hearing will not be used at any step meeting.
- 46.14.2 The Step A official will render a written decision within 20 workdays after the date of the meeting or the date on which the meeting is waived. If the grievant is not satisfied with the Step A decision, the decision may be appealed to the Step B official within 10 workdays after the date of receipt of the written decision. The Step B official will be identified in the Step A written decision and will normally be the grievant's second level supervisor. The appeal from Step A must clearly specify the reasons on which the appeal is based and the issues in dispute (if different than as set forth in the original grievance). As an alternative to Step B, the grievant may request mediation. If the grievant wishes to attempt mediation, and the NRC and NTEU agree, the services of the Federal Mediation and Conciliation Service, or any other mutually agreed upon dispute resolution service, will be requested. Mediation will not exceed two sessions. The costs of the mediation services will be shared equally by NTEU and NRC. This mediation phase is similar to settlement discussions. Issues raised during the mediation phase will not be used as evidence or in any other manner in any arbitration hearing. If no settlement is reached during the mediation sessions, the NTEU may invoke arbitration on behalf of the grievant, in accordance with the Collective Bargaining Agreement. If arbitration is not timely invoked, the grievance is terminated. The timeframe for invoking arbitration will begin on the first workday after the final mediation session took place.

46.15 Step B Guidelines

- 46.15.1 The Step B official, the grievant, and the grievant's representative(s), if any, and the Chief, Policy, Labor and Employee Relations Branch, or designee shall meet within 10 workdays after the date of receipt of the written appeal to discuss the appeal. The meeting will provide an opportunity to discuss the decision of the Step A official, including any claimed inaccuracies, any failures to meet or resolve any issues, any issues which remain unresolved, and any respects in which any remedy or proposed resolution of the matter is considered inappropriate by the grievant, and other relevant matters.

- 46.15.2 Step B officials shall render a written decision within 20 workdays after the date of the meeting or after the date on which the meeting is waived.

46.16 Appeal to Arbitration

If after reaching the last step in the grievance chain available to a particular grievant, the grievant is not satisfied with the final decision, then NTEU may, at its option, appeal the matter to arbitration. NTEU may also appeal an Agency determination to terminate a grievance at any step directly to arbitration. Should NTEU elect to exercise this option, it must invoke arbitration within 20 workdays (1) of receipt of the final step official's decision; (2) from the date the Agency's decision was due; (3) from the date of the last mediation session under 51.15.2; or (4) from the date of the termination notice.

46.17 Time Limits

- 46.17.1 The parties agree that by mutual consent the time limits in this Article may be extended; and/or any step of this grievance may be waived.
- 46.17.2 Failure on the part of a Step A official to observe the time limits for issuing the Step A decision will constitute a denial of the grievance and permit the aggrieved employee or the Union to appeal to the next step. The time period for the Union to appeal to Step B will begin on the day after the decision was due by the NRC (20 workdays after the date of the Step A meeting or the date the meeting was waived). If the Union does not appeal to Step B within 10 workdays of the due date for the Step A decision, the grievance may be terminated by the NRC, but only upon providing written notice to the person who filed the grievance (the employee or his/her representative).
- 46.17.3 Failure on the part of the grievant to otherwise observe time limits for any step shall have the effect of terminating the grievance.
- 46.17.4 The terms of 46.17.2 and 46.17.3 do not apply to the time limits for scheduling meetings under Step A and Step B of this grievance procedure.

46.18 Distribution of Decisions

When NTEU is the designated representative in a grievance, the decision letters will be emailed or otherwise provided to the union representative and chapter president and the Union will give a copy of the decision letter to the employee. In all other cases, the NRC agrees to provide to the Union 1 copy of all written step decisions rendered on employee grievances filed under this Article. The Union will send to the Chief, Policy, Labor and Employee Relations Branch, or designee, one copy of each appeal from a step official's decision. Time frames for meetings, etc., begin with receipt by the Step Official.

46.19 Grievance Meeting Attendance

No bargaining unit employee other than the grievant and his/her representative(s) will attend a grievance meeting, unless the Union and the NRC agree otherwise, in which event the employee other than the grievant and his/her representative(s) will be allowed official time to attend the meeting.

46.20 Process Participation

Employees, designated representatives, and employee witnesses at arbitration hearings will be assured freedom from restraint, interference, coercion, discrimination, intimidation, or reprisal arising out of their initiation or participation in the resolution of a grievance.

46.21 Document Requests

The grievant or his/her representative may request documents relevant and necessary to the grievance pursuant to Article 43. Whenever the Union requests documents for the purpose of representing a grievant(s), the time frame for Union response/action on the grievance shall be extended day for day, from the time the request is received until the NRC either denies the request or provides the documents, whichever is appropriate.

46.22 Non-Grievability and Non-Arbitrability

If the NRC alleges that a grievance is non-grievable or non-arbitrable for reasons other than timeliness, then the NRC shall notify the Union no later than the Step A decision letter of the reasons for such a determination. The issue of timeliness may be raised by the respondent at the initial step (Step A) with respect to matters relating to the initial filing and at the final step (Step B) with respect to matters occurring since the initial step meeting. Upon its request, NTEU will be provided this information in writing. When the NRC alleges an issue is non-grievable or non-arbitrable for reasons other than timeliness, the Union will have 5 workdays to amend and refile the grievance if it wishes or to proceed without amendment. The grievance will be resubmitted and proceed through the grievance procedure. Questions of non-grievability and/or non-arbitrability when raised shall be joined to the grievance.

Article 47

Arbitration Procedures

47.1 Invocation

An unresolved grievance processed through the last step of Article 46, Grievance Procedures, may be appealed by the Union or the NRC to binding arbitration. The provisions of 5 U.S.C., Section 7121(b)(3)(C) establish that the Union or the NRC has the authority to invoke arbitration as an appeal of a grievance. Therefore, when an employee has an election to proceed through a statutory appeal process or through the grievance/arbitration process, the employee must be mindful that the power to invoke arbitration rests solely with the Union. Thus, the employee must recognize that should he/she decide to appeal through the grievance/arbitration process and the Union decides not to invoke arbitration, then the employee will have no further recourse through a statutory appeal process, unless the aggrieved employee alleges having been affected by a prohibited personnel practice under Section 2302(b)(1) of 5 U.S.C.

47.2 Appeal to Arbitration

Appeals to arbitration must be in writing and either be hand delivered or sent by certified or registered mail or e-mail to the Chief, Policy, Labor and Employee Relations, or to the NTEU National President with a copy to the President, NTEU Chapter 208.

47.2.1 If an appeal is to be hand delivered to the Chief, Policy, Labor and Employee Relations Branch, the person making delivery of the written appeal must obtain the signature of the Chief or his/her designee on the original copy of the appeal and date and time the appeal was received in Labor Relations. A photocopy of the original with the date and signature of receipt should be made for the Union to retain for its records.

47.2.2 If hand delivered, or delivered by fax or e-mail, an appeal must be received in Policy, Labor and Employee Relations no later than 5:00 p.m. on the 20th workday after the date of receipt of the final step decision in the negotiated grievance procedure or after the date of receipt of the notice of decision of an adverse action. If sent by certified or registered mail, the appeal must be postmarked by the Postal Service with a date no later than the 20th workday after the date of receipt of the final step decision, or after the date of receipt of the notice of decision of an adverse action. (See Article 45, Section 45.7.9 regarding direct appeal of adverse actions to arbitration.) If the Agency fails to issue a final step grievance decision in accordance with the time limits set forth in this Agreement, the Union may, at its option, appeal the matter to arbitration at any time after the decision was due. However, if a decision is issued prior to the Union requesting arbitration, the twenty-day time limit will begin to run.

47.3 Procedures

- 47.3.1 The procedures for the selection of arbitrators for grievances arising in Headquarters and the Regional offices are set forth below. A grievance is defined as arising in Headquarters if the grievant's duty station is in the Washington, D.C., metropolitan area or if the grievance is filed solely in the name of the Union or by the NRC.
- 47.3.2 When arbitration is invoked by either the NRC or the Union for grievances arising in NRC Headquarters or the Regional Offices, the moving party will, within 20 workdays after invocation, contact the other party to seek agreement on selection of an arbitrator. If no agreement is reached, the moving party will request a list of 7 arbitrators with federal sector experience from the Federal Mediation and Conciliation Service (FMCS). If the moving party fails to do so within 30 workdays, the other party may request such list. These arbitrators will be from the Washington, D.C., metropolitan area for Headquarters grievances and from the metropolitan area encompassing the Regional Office for grievances arising in the Regions.
- 47.3.3 The NRC and Union will confer within 5 workdays after both parties have received the list to seek agreement on an arbitrator.
- 47.3.4 If the parties cannot agree on an arbitrator, the NRC and the Union will strike 1 name from the list alternately until 1 name remains. The remaining person shall be the duly selected arbitrator. The toss of a coin shall determine whether the NRC or the Union strikes the first name.
- 47.3.5 Within 15 days of the time the parties confer pursuant to Section 47.3.3, the party requesting the list of arbitrators from the FMCS will notify the FMCS of the parties' selection of arbitrator.
- 47.3.6 Upon assignment, NRC will forward the arbitrator the grievance, step appeals, and responses. The arbitrator will also be provided additional relevant documents, as agreed to by the Parties.
- 47.3.7 Normally, hearings will commence within 120 days after the date arbitration is invoked unless the arbitrator's schedule does not permit or by mutual agreement of the parties.
- 47.3.8 No later than 15 workdays before a scheduled hearing, the parties shall explore possible resolution of the case, clarify and stipulate the issue or issues, exchange witness lists, and agree on joint exhibits and joint stipulations of fact. If the parties cannot agree on a joint stipulation of the issues, the parties shall exchange separate written statements of the issues no later than 5 workdays before the scheduled hearing.

- 47.3.9 In any case where the Parties mutually agree to postpone, delay, or cancel an arbitration proceeding, the Parties will share equally the cost of any fees being charged by the arbitrator or the court reporter which are associated with the requested change. If there is no mutual agreement, then the party requesting the postponement, delay or cancellation will pay any resulting fees.
- 47.3.10 Each Party has the responsibility and obligation to produce its witnesses on the day of the hearing, and each Party will bear its own witnesses' expenses, including travel. The grievant and all employees who are called as witnesses will be excused from duty to the extent necessary to participate in the arbitration hearing, without loss of pay or charge to annual leave.

47.4 Expedited Arbitration Procedures

- 47.4.1 At the Union's option, any grievance over the following matters may be appealed to arbitration under an expedited process (except for those matters which include a claim of discrimination):

Disciplinary actions;

Details or Reassignments;

Performance Appraisals;

Denial of leave requests, work schedule requests, telework requests or requests for official time;

Overtime or compensatory time;

The Union's use of Agency services or facilities under Articles 53 and 54; or

Travel.

- 47.4.2 Expedited arbitration cases will follow the procedures set forth in 47.3, above, except that:

47.4.2.1 No briefs may be filed. No transcript is necessary, but if either party requests a transcript, that party shall pay the cost. Such transcript will not be provided to the arbitrator unless otherwise requested;

47.4.2.2 At the close of the hearing, the Parties may submit memoranda outlining legal points and authority, including copies of precedent setting case decisions;

- 47.4.2.3 The arbitrator will issue a bench decision, if possible, which will be confirmed in writing. If a bench decision is not possible, the arbitrator will issue a brief written decision within 10 workdays of the close of the hearing.

47.5 Arbitration Expense and Time

- 47.5.1 The arbitrator's fees and expenses, if any, shall be borne equally by the parties. If possible, the arbitration hearing will be held on the NRC's premises during the regular day-shift hours of the basic workweek, except that the location of the hearing for institutional grievances invoked to arbitration shall alternate between the NRC's premises and the NTEU National Office.
- 47.5.2 The grievant and grievant's Chapter representative shall be allowed official time to attend the arbitration proceedings. All bargaining unit employees with relevant and necessary information who are called as witnesses, and who are on active duty status, shall receive official time to the extent necessary to testify in the arbitration proceedings without loss of pay. The NRC will grant the employee's request for official time to be excused from duty provided such absence does not cause a severe work interruption.
- 47.5.3 A verbatim transcript of the arbitration proceedings shall be made unless the parties mutually agree that one is not needed. The cost of the court reporter will be shared equally by the Parties, with each Party bearing the cost of its own copy of the transcript. Copies of transcripts will be sent simultaneously to the Parties and the arbitrator. Where possible, the Parties will request an electronic transcript (e-transcript) in lieu of a paper transcript, to save printing expenses.

47.6 Arbitrator Responsibility

- 47.6.1 An arbitrator will issue a decision within 30 calendar days after the close of the record.
- 47.6.2 The jurisdiction and authority of the chosen arbitrator will be confined exclusively to the interpretation of the provision or provisions of the Agreement at issue between the parties. The arbitrator will have no authority to add to, subtract from, alter, amend or modify any provision of this Agreement.
- 47.6.3 The arbitrator shall have the authority to:
- 47.6.3.1 administer oaths,
 - 47.6.3.2 rule upon offers of proof and receive relevant evidence,
 - 47.6.3.3 limit lines of questioning of testimony which are immaterial, irrelevant or unduly repetitive,

- 47.6.3.4 regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct or cause disturbance,
 - 47.6.3.5 strike any or all related testimony of witnesses who refuse to answer any questions ruled to be proper,
 - 47.6.3.6 hold conferences to discuss simplification of the issues and possible settlement with the consent of the parties,
 - 47.6.3.7 request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof, and
 - 47.6.3.8 address unresolved issues of grievability and arbitrability. Either party may assert by pre-hearing motion and response that a matter presented for arbitration was not grievable or is not arbitrable on grounds that it was untimely filed or that the matter is excluded by the terms of this Agreement or by law. The arbitrator will have the authority to make a decision based on the motion and response, bifurcate the hearing to decide the issue of grievability or arbitrability prior to proceeding with the hearing on the merits of the case or hear the issue of grievability or arbitrability as part of the full case.
- 47.6.4 The arbitrator shall not have the authority to:
- 47.6.4.1 require the attendance or testimony of witnesses not called by either party.
 - 47.6.4.2 require the production of documents not offered in evidence by either party.
 - 47.6.4.3 make an independent investigation of the matter, other than at the hearing.
 - 47.6.4.4 add to, subtract from, alter, amend or modify any provision of this Agreement;
 - 47.6.4.5 address any matters excluded from the grievance procedure, regardless of the specific allegation(s) or issue(s) raised;
 - 47.6.4.6 consider new violations raised by the grievant that he/she had not previously raised, in writing, at or before the Step B grievance meeting.

However, the arbitrator has the authority to grant a Party's motion that the arbitrator draw an adverse inference when the other Party fails to produce facts, documents or witnesses that the arbitrator deems necessary and relevant.

- 47.6.5 The arbitrator shall possess the authority to prescribe remedies to the extent provided under pertinent laws, rules, and regulations. An arbitrator has the authority to award reasonable attorney fees in accordance with applicable law.
- 47.6.6 The decision of the arbitrator will be final and binding. However, either Party may file an exception to the arbitrator's decision with the Federal Labor Relations Authority (FLRA) in accordance with the FLRA's regulations.

47.7 Burden of Proof

The grievant, i.e., moving party, has the burden of proof regarding the merits of the grievance by a preponderance of the evidence with the following two exceptions: NRC has the burden of proof regarding a performance-based action by substantial evidence in accordance with Chapter 43 of the Civil Service Reform Act, and a disciplinary or adverse action by a preponderance of the evidence in accordance with Chapter 75 of the Civil Service Reform Act.

Article 48

Trial Period Employees

48.1 Duration

The trial period for new preference-eligible NRC employees, as defined in 5 U.S.C. 2108, is one year. The trial period for new non-preference eligible NRC employees is generally two years. NRC will strive to advise a trial period employee of his/her performance prior to the end of the tenth or twentieth month of his/her trial period, depending on whether that period is one or two years. Supervisors are encouraged to provide prompt feedback to trial period employees concerning any problems regarding their employment. Performance which deteriorates or misconduct which occurs after a performance appraisal has been issued may be made the basis for separation up to the end of the trial period.

48.2 Termination Procedures

The parties agree that when the NRC determines that a trial period employee is to be terminated, the following procedures will be followed:

- 48.2.1 A letter of termination will be issued by a management official stating the (a) date of termination; and (b) reasons for termination. The employee will be provided the original and a copy of the letter of termination.
- 48.2.2 Except when circumstances dictate delivery by certified mail, the letter of termination shall be delivered to the employee by a manager in the employee's chain of command as soon as possible after its preparation, but no later than the close of business on the last day of the trial period. When practicable, the employee will be allowed to express his or her views on the reasons provided for the termination when the letter of termination is delivered. However, a decision by the NRC that a trial period employee is terminated is final and is neither grievable nor arbitrable.
- 48.2.3 An employee who believes this action has been based on illegal discrimination may consult with an EEO Counselor.

Article 49

Reduction In Force (RIF)

The Parties recognize that a Reduction in Force is highly disruptive to managers and employees alike, and they are committed to working in good faith through collaboration to attempt to mitigate the need for or the severity of a RIF. Consistent with this commitment, a union-management committee will begin meeting when the agency anticipates that there may be a need for a RIF. The union-management committee will consider the missions of the organizations and functions of positions, and will consider discretionary managerial and budgetary options available to relieve funding shortfalls and employee reductions. The committee will make recommendations to agency officials who have the authority to make decisions that could mitigate the need for or the severity of the potential RIF such as facilitating the placement of employees outside of the affected organization. The authorized agency officials will make final RIF decisions. The committee will be comprised of an equal number of management and union representatives. The union representatives will be appointed by the NTEU Chapter President. The committee will be the primary vehicle used by NTEU to monitor the RIF.

49.1 Advance Notification of RIF

If the NRC decides to initiate a RIF, it shall notify the NTEU of the proposed RIF as far in advance as possible, but no later than 120 days before the effective date of the first RIF action, so that the parties may work cooperatively on alternatives to the RIF. Such notification shall include the reason for the RIF, the proposed effective date, the particular competitive area(s) initially affected, competitive level definitions, and the criteria used to identify the positions affected. Once a retention register is established it will be provided to NTEU. If such information is revised, it will be provided to NTEU.

49.2 Impact and Implementation Bargaining

Upon receipt of the notice under 49.1, and in accordance with Article 42, NTEU may submit proposals for bargaining over the impact and implementation of the RIF, to the extent permitted by law and consistent with this Article.

49.3 Follow-up Notification

If the NRC initiates a RIF, the NRC will provide a written notice to the NTEU before notifying affected employees. This notice shall contain the following: the proposed effective date(s), competitive level(s) and area(s) affected, position(s), the names of the affected employee(s), and the reasons for the RIF.

49.4 RIF Procedures

The NRC and NTEU will collaborate to consider practicable options and measures to minimize the adverse impact of any reduction in force as set forth earlier in this Article.

As set forth in NRC's Management Directive 10.103, and after establishing the competitive area impacted by RIF, NRC will establish competitive levels pursuant to 5 C.F.R. § 351.403. NRC will establish competitive levels consisting of all positions in a competitive area which are in the same grade and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the NRC may reassign the incumbent of one position to any of the other positions in the level without undue interruption, in accordance with 5 C.F.R. § 351.403.

NRC may not establish a competitive level based solely upon the grade promotion potential of the position. Consistent with excepted service guidelines, and to minimize disruption to employees and the Agency's mission, NRC will not make assignments involving displacement of other employees outside the competitive level (also known as bump and retreat).

The NRC will follow the excepted service order of retention, as set forth in 5 C.F.R. § 351.502. Competing employees shall be classified on a retention register in tenure groups on the basis of their tenure of employment, veteran preference, length of service and performance in descending order, in accordance with 5 C.F.R. § 351.502. Service Credit for performance will be calculated in accordance with 5 C.F.R. § 351.504.

When two or more employees are tied in retention standing, i.e., two employees in the same group have the same service computation date, and one or more but not all tied employees must be released from the competitive level, the NRC shall break the tie on the basis of:

1. length of NRC service, and if a tie remains;
2. time within grade, and if a tie remains;
3. by lottery.

The NRC will provide NTEU and employees who are issued certificates of expected separation, or specific RIF notices, with information concerning the full array of entitlements and benefits that accrue to employees under law, regulation, and this article, including information on retirement options, severance pay, appeal rights, priority selection and repromotion, etc.

49.5 Information to NTEU

To the extent that this information is available, the NRC shall provide NTEU with data that shows the numbers of employees who are issued certificates of expected separation and specific RIF notices. Specifically, this data will show the numbers of employees by race, national origin, gender, disability status, and age (40 and older) who are affected.

NTEU will have thirty (30) days after receiving this data to submit ideas to the union-management committee on minimizing the potential EEO impact of a proposed RIF on protected classes of employees. At the completion of a RIF, the NRC will provide NTEU with a report on the numbers of employees by race, national origin, gender, disability status, and age (40 and older) who were affected.

The NRC Employer shall make the retention register available for visual inspection by affected employees in a competitive area in which a RIF has been announced.

49.6 Notice to Employees

Employees identified as being affected by a reduction in force shall be provided written notice at least sixty (60) calendar days before the effective date of a reduction in force action. Employees

affected by reduction in force shall have the opportunity to meet with an Office of the Chief Human Capital Officer (OCHCO) representative to discuss the action and the information related to the employee's RIF action. NRC will advise employees affected by a RIF that they should avail themselves of the opportunity to review their Official Personnel Folder (OPF) to ensure the accuracy and completeness of the information contained therein. A reasonable amount of official time will be provided for this purpose.

Employees may also have a reasonable amount of official time to review documents related to their reduction in force action. Employees who have been issued a specific reduction in force notice, and/or the employee's representative if the representative is acting on behalf of the individual employee, are entitled to review any completed records used by the agency in a reduction in force action that has been, or will be taken, against the employee including:

the complete retention register information with the released employee's name and other relevant retention information (including the names of all other employees listed on that register, their individual service computation dates and their adjusted service computation dates) so that the employee may consider how the agency constructed the competitive level, and how the agency determined the relative retention standing of the competing employees; and

An employee who has not received a specific reduction in force notice is not entitled to review the NRC's retention registers and the related records. NRC is responsible for ensuring that each employee's access to retention records is consistent with both the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552(a)).

49.7 Career Transition Assistance

In order to assist employees separated in a RIF action to obtain other employment, the NRC will provide employees with assistance and information, including:

- assistance in resume preparation and development of interviewing skills;
- vacancy announcement listings;
- information about registration with Department of Labor's Dislocated Worker Program; and
- information on transitioning to the private sector.

In addition, employees may avail themselves of the assistance and services of the Employee Assistance Program (EAP).

To the extent consistent with mission accomplishment, employees may also be allowed a reasonable amount of time to prepare resumes and to prepare for interviewing for outside employment. Such time should not normally exceed forty (40) hours.

An employee who is downgraded as a result of a reduction in force action and who is otherwise eligible, shall receive grade and pay retention benefits consistent with 5 U.S.C. §§ 5362 and 5363, and applicable regulations.

This agreement does not affect the entitlement of employees to file appeals contesting reduction in force actions to the Merit Systems Protection Board.

Article 50

Meetings with New Employees

50.1 Content and Duration

The NRC will permit the Union up to 30 minutes of official time to address new employees during the NRC orientation session, or similar group meeting with new employees. The Union will have the right to discuss the contract, current labor-management issues, the laws and regulations on Federal sector labor relations, its internal structure or any other subject that does not slander or libel a government official. The Union may distribute orientation packages to new employees during such sessions. The Union may not solicit membership or dues, or otherwise conduct any activities relating to the internal business of the Union during such meetings. Questions concerning these matters will be deferred by the Union representative and the employee to their non-duty hours.

50.2 New Employee Notification

The NRC agrees to provide the Union with the name and organization of all new employees within 20 workdays of the date they begin service with the NRC.

Article 51

Union Representatives

51.1 Notices and Other Communications

Except as otherwise specifically provided by this Agreement, notices and other written communications required by this Agreement to be given by one party to the other will be sent as follows: NRC shall send all such communications to the President of Chapter 208 (with attachments). The Union shall send all such communications to the appropriate NRC management official (e.g., first line supervisor for employee grievances) with a copy to the Chief, Employee/Labor Relations and Work Life Branch, Office of Human Resources (HR), NRC.

51.2 Authority

Regional officers or their designees shall have the authority to enter into binding agreements with respect to working conditions which impact only their assigned region. The Chapter President or his/ her designee shall have the authority to enter into binding agreements with respect to matters affecting the entire chapter or more than one geographic location of the chapter.

51.3 Number of Headquarters Union Officials

In NRC Headquarters (all offices in the Washington, D.C. metropolitan area), NRC agrees to recognize a maximum of 14 Union representatives at any one time who shall be granted official time to the extent provided for in Article 52 of this Agreement. Union representatives in NRC Headquarters shall consist of the Chapter 208 President, the Chapter 208 Executive Vice-President, the Chapter 208 Chief Steward, and not more than 11 stewards.

51.4 Number of Regional Union Officials

In each NRC regional office, the NRC agrees to recognize a steward group consisting of a maximum of one steward, one alternate steward, and one Union Regional Chapter Officer, for purposes of being allowed to utilize official time from a regional office bank of time.

51.5 Steward Listing

The Union agrees to provide the Chief, Employee/Labor Relations and Work Life Branch, a list of stewards and alternate stewards, as described in Sections 51.3 and 51.4, within 10 workdays after the effective date of this Agreement.

51.6 Steward Changes

The Union agrees to provide to the Chief, Employee/Labor Relations and Work Life Branch, written notice of any changes in such list at least two workdays in advance, if possible, of the effective date of the change. Official bank time will not be granted to a steward for whom notice has not been received.

51.7 Scope of Steward Appointments

All Union representatives shall be members of the bargaining unit, but no more than two (2) union representatives may be appointed from the same organization and branch. Additionally, in situations where two union representatives are appointed from the same organizational unit, the Union representatives shall make every reasonable effort to schedule use of

official representational time so as to avoid simultaneous absence of the Union officials for representational purposes.

51.8 Steward Functions in Relation to Official Duties

Union stewards will arrange to perform their representation functions at a time that will present minimum interference with duties assigned by their supervisors. The supervisor may deny a steward's request to interrupt work on his/her assigned duties in order to engage in representational functions for reasons related to the steward's workload. Performance appraisals of stewards and Union representatives shall be based solely upon the performance of their NRC assigned duties in the available time to perform such assigned duties.

Article 52

Official Time

52.1 Official Time

The parties recognize that official time is a necessary part of collective bargaining and that good communications and constructive relationships are essential to maximizing the effectiveness of labor relations.

52.2 Official Time Allocation

Each calendar year official time shall be allocated to Chapter 208 as follows:

- 52.2.1 The Chapter President will be allocated 100% official time (approximately 2000 hours per fiscal year);
- 52.2.2 One additional position (designated by the Chapter President) will be allocated 100% official time (approximately 2000 hours per fiscal year) ;
- 52.2.3 Appointed stewards will receive a 10% allocation of official time (approximately 200 hours per position per fiscal year). The chapter will appoint no more than 11 stewards at Headquarters (excluding the Chapter President and additional 100% official time position), and three stewards in each Region.

Unused allocations of official time from the time allocated to the Chapter President and the one additional position in 52.2.2 above (i.e., for periods of absence or retirement) are transferable by the Chapter President but do not carry over each year. Each steward may be allocated no more than a total of 25% (approximately 500 hours) each year (e.g., the 10% originally allocated and no more than an additional allocation of 15%).

52.3 Allocated Official Time Functions

The allocations of official time set forth in 52.2 shall be used for the following activities:

- Confer with affected unit employees about matters for which they can receive remedial relief under this Agreement;
- Preparing for and handling grievances, including interviewing of witnesses and attending step meetings;
- Prepare for arbitration, to include testifying as a witness at an arbitration hearing;
- Prepare for and/or attend training related to the CBA and/or the Statute;
- Prepare and issue reports required by the Department of Labor;

- Prepare for and meet with members of Congress and their staffs to discuss legislative and related matters affecting the NRC and its employees (this time may not be used to conduct internal Union business or prohibited forms of lobbying);
- To maintain Union office hours in the main NTEU office;
- Participation in labor-management forums, including the labor management partnership committees (LMPCs);
- To attend any examination, pursuant to 5 U.S.C., Section 7114(a)(2)(B), of an employee by a representative of NRC in connection with an investigation if the employee requested such attendance;
- To represent an employee with respect to a reply to a notice of proposed disciplinary or adverse action, or a notice of proposed removal or reduction in grade based on unacceptable performance; and
- Reasonable time spent traveling to and from activities identified in this section.

52.4 Non-Allocated Official Time Functions

The parties agree that, in addition to the allocations of official time set forth in Section 52.2, Union representatives at NRC Headquarters and Regional Offices are granted reasonable official time under 5 U.S.C., Section 7131(a) and (d), to include the following:

- Prepare for and participate in mid-term negotiations, including discussions on the impact and implementation of proposed changes in personnel policies, practices, and matters affecting working conditions;
- Reasonable time spent traveling to and from activities identified in this section.

In order to use this time, a Union representative must request and be granted permission from his/her supervisor or supervisor's designee to be released from work to perform such representation functions, unless such time is expected to be less than 15 minutes. He/she will specify the purpose, expected length of such time off from official duties, the office he/she intends to visit, and a telephone number where he/she can be reached (if leaving his/her normal work area). Permission will be granted unless the representative's absence would cause a substantial work interruption or if an emergency exists. In the event that the Union representative's supervisor is unavailable, the Union's representative shall leave a message for the supervisor or designee furnishing the information described in this paragraph. Official time usage is work time and must be documented completely and accurately in HRMS (Time and Labor) using the proscribed activity codes.

52.5 Employee Duty Time

This section does not cover NTEU stewards when acting in their representational capacity. NTEU steward official time is provided in previous sections of this Article.

- 52.5.1 Employees who are complainants, witnesses, or representatives will be allowed a reasonable amount of duty time to attend:
- grievance step meetings and hearings before arbitrators, the MSPB, FLRA, and other government agencies authorized to review employment related matters;
 - meetings with management officials or investigators related to the underlying issues raised in these matters;
 - employees who are complainants, witnesses, or representatives will be allowed reasonable duty time to prepare for the matters described above.
- 52.5.2 Employees who are complainants, witnesses, or representatives will be allowed reasonable duty time to attend:
- 52.5.2.1 meetings with a Union representative to discuss potential grievances, grievances which he/she has filed, or knowledge he/she may have regarding a grievance filed by another employee (witness).
- 52.5.3 Employees who are complainants, witnesses, or representatives in the EEO process (29 CFR Part 1614) will be allowed duty time to attend meetings and hearings with management officials or EEOC Administrative Judges.
- 52.5.4 Employees will be allowed up to one hour of duty time each quarter to attend briefings from the Union concerning representational matters and to discuss other conditions of employment.
- 52.5.5 Requests for duty time or reasonable duty time as described in 52.5.1, 52.5.2, 52.5.3, and 52.5.4 above may be denied only if the employee's absence would cause a work interruption or an emergency exists. Reasonable duty time is generally defined in terms of hours, not in terms of days, weeks or months. In rare instances (i.e. a protracted, complex case), the Agency recognizes that the cumulative amount of reasonable duty time allotted could exceed the norm.
- 52.5.6 Employees desiring to use duty time or reasonable duty time pursuant to this section must request permission from their supervisors in advance, and must report the time consistent with applicable Agency time and labor reporting requirements.

52.6 Credit Hours

To the extent permitted by Article 6, Hours of Work, union representatives, as defined in Article 51, may earn credit hours (but not overtime or compensatory time) while performing representational functions for which official time is authorized. Credit hours earned while performing representational functions are charged to one of the four prescribed activity codes.

52.7 Internal Union Business

Any activities performed by an employee, including any employee who represents the Union, relating to the internal business of the Union (including the solicitation of membership, elections of Union officers, and collection of dues) shall be performed during the time the employee, including one who represents the Union, and any other employee who is being solicited, are in a non-duty status. Further, the parties agree that employees, including Union representatives, may not conduct internal Union business on official time. The Union agrees to notify Union members that such activity is prohibited through annual announcements published in its newsletter and bulletin boards.

Article 53

Union Access to NRC Facilities

53.1 Union Office Space

The NRC agrees to make an enclosed office with secured access available to the Union for its exclusive use. The NRC agrees to provide the Union, at a minimum, with a desk, table, a four or five drawer lockable file cabinet, a bookcase, four chairs, three computers configured similarly to agency employees' systems and one LAN printer. The NRC agrees that the Union may install a commercial telephone line and Wi Fi in such office space and the Union shall be responsible for the installation, maintenance, and use expenses thereof. NRC agrees that each Union official shall be provided with a lockable desk or a lockable file cabinet. NTEU agrees to adhere to applicable building and security regulations in the designated space.

The agency will also continue to provide the Union with an enclosed office of convenience with secured access in the Two White Flint North building.

53.2 Meeting Space

Subject to applicable Government-wide regulations, the NRC, when requested reasonably in advance, will permit the Union to use, for labor relations and representational purposes, such official meeting space as is available based upon NRC's need for such meeting space for official purposes. Additionally, NRC, when requested reasonably in advance, will permit the Union to use other such private space which is reasonably available as determined by NRC. NTEU will copy the Chief, Policy Labor and Employee Relations Branch, OCHCO, on any request made to use such space. The NRC agrees to grant the Union the right to reserve such meeting space, subject to the same rules which apply to use by other employees or employee groups.

53.3 Use of Telephones

Employees, including those who represent the Union, may use the government telephones at their places of employment to communicate concerning labor relations matters, but shall not have the right to use such telephones to perform any of the internal business affairs of the Union.

The NRC's telephones shall be used only for interagency or local calls, except for those related to representational duties. If, inadvertently, long distance calls are made from the government telephone by any Union representative while that representative is conducting Union business, the Union agrees to reimburse the NRC for the use of such telephones when commercial lines are used.

53.4 Union Elections

Activities of employees relating to Union elections shall only be performed during the time employees are in a non-duty status. The NRC agrees that the Union may place ballot boxes in spaces designated by the NRC. This space will be limited to one (1) location per building in Headquarters and one (1) location per Regional Office. The Union agrees to provide the NRC a 30-day advance notice prior to such elections. The NRC assumes no responsibility for the safety or security of the ballot boxes.

53.5 Building Access

A Union representative who is not an NRC employee will be allowed access to the NRC's premises under the same security procedures which are or will be applied to other visitors to the same NRC premises. Any activities performed by an employee who is visited relating to the internal business of a labor organization shall be performed during the time the employee is in a non-duty status.

53.6 Use of Computer Systems

NRC computer systems are to be used in accordance with agency and Federal policies and regulations. The Union may use the NRC's e-mail system for communications for labor relations and representational purposes. The Agency will provide the Union with an e-mail account for its exclusive use. NRC computer systems will not be used by the Union to perform any of the internal business affairs of the Union. Messages shall not contain any libelous or slanderous statements pertaining to the Federal Government, to NRC, or to any NRC supervisor management official or other NRC employee. The Union is not permitted to use NRC computer systems to lobby Congress.

The Agency will also provide a mechanism for the Union to send e-mail announcements directly to all current bargaining unit employees and which does not result in "out-of-office" replies to the Union's e-mail account. NTEU announcements will be distributed with a header and footer developed by NTEU clearly identifying the Union as the source of the announcement.

The Agency will maintain a distribution list of bargaining unit employees and the NTEU Chapter 208 mailbox will be included on the distribution list. The distribution list will be broken down by headquarters and regions/technical training center. If NTEU identifies a discrepancy with this list, the Agency will correct the discrepancies normally within ten (10) work days. If an employee specifically requests to be removed from the distribution list, the NRC will fulfill such requests.

Article 54

Union Access to NRC Services

54.1 Copy Machine

NRC agrees to allow Union representatives to use NRC self-service copying facilities in connection with their representational activities. The duplication of documents for internal Union business is prohibited.

54.2 Mail Services

Neither employees nor Union representatives, in connection with matters covered by this Agreement, shall use the following services for the transmittal of written material; Government franked envelopes, express, priority, certified, classified, or registered mail, courier, interagency mail; or private, expedited delivery service. However, the Union will be allowed reasonable use of the facsimile for transmittals between Union officials, and between Union officials and Labor Relations Specialists, for representational activities.

54.3 Intra-agency Mail

"U.S. Government Messenger Envelope," "To be Opened by Addressee Only," envelopes, "blue bag," or their equivalents, may be used by employees and Union representatives, in connection with labor relations matters for the transmittal of written material to and among employees, Union representatives, and NRC supervisors and management officials. Individual unit mail station drops may be used by Union representatives to distribute material concerning labor relations matters. Desk drops and mail drops shall not be used, except as provided below.

54.4 Newsletter Distribution

The Union's newsletter may be distributed to the employees during non-duty hours by deliveries to individual unit mail stations of such employees when such stations exist. However, the Union may distribute its newsletter through the intra-agency mail system provided that each newsletter is labeled by the Union with the name and the mail station of the addressee. The Chief, Employee/Labor Relations and Work Life Branch will be included on the distribution list.

54.5 Collective Bargaining Agreement Distribution

NRC agrees to make this Agreement available to all employees on the intranet. NRC also agrees to furnish to the Union 100 printed copies of this Agreement prior to the effective date of the Agreement and any additional copies, from time to time, which may be required during the normal course of business. The NRC agrees to provide all newly hired unit employees with a printed copy of this Agreement on the first workday the new employee enters on duty.

54.6 Collective Bargaining Agreement Format

It is agreed that the printed Agreement be preceded by the Preamble and a Table of Contents which sets forth the Article numbers, titles and page references. The printed Agreement shall be followed by an alphabetical subject matter index, jointly prepared by the NRC and NTEU, Chapter 208.

54.7 Management Directives

NRC will make all NRC Management Directives concerning personnel policies, practices, and conditions of employment available to employees on the Agency intranet. NRC will also

provide an index of all Management Directives with related Yellow Announcements on the Agency intranet. As Management Directives are updated, a direct link will be provided to any related Yellow Announcements. Yellow Announcements not indexed or linked to a Management Directive are not effective with regard to personnel policies, practices and conditions of employment.

54.8 Distribution of Printed Union Literature

The NRC agrees to permit representatives of the Union to distribute Union literature in non-work areas, provided that both the representative distributing and the individual receiving such material is in a non-work status. Non-work areas include snack bars, hallways, cafeterias, entrances and rest rooms. Such material shall not contain libelous or slanderous statements pertaining to the Federal government, to NRC, or to any NRC supervisor or management official or any other NRC employee. The Union agrees to provide a copy of the material to be distributed to the Chief, Employee/Labor Relations and Work Life Branch, reasonably in advance of distribution for informational purposes only; any alleged violations of the terms of this section may be addressed under the negotiated grievance procedure. Desk drops will not be permitted. Representatives will be allowed to leave representational material at existing central mail stations for each building for further distribution.

54.9 NTEU Representative Pictures

In each NRC building, NTEU will be permitted, consistent with applicable law and regulation, to post a picture of NTEU representatives. These pictures will be approximately the same size as current pictures of EEO Counselors. NTEU will provide the pictures, coverings and frames and will maintain and update these pictures. NTEU will assume the cost of any significant damage or repair associated with this endeavor caused by NTEU.

Article 55

Bulletin Boards

55.1 Bulletin Boards Usage

The NRC agrees to permit the Union to post notices and issuances on one-third of the space on all NRC bulletin boards located in any NRC building.

The Union may, if permitted by the lessor and by applicable Government-wide regulations, furnish one board similar in size to an NRC board. Such bulletin board shall be mounted at a location as close to the NRC bulletin board as practicable. If a separate bulletin board is erected by the Union, its space on the nearby NRC board will be relinquished. In no event shall the number of bulletin boards furnished by the Union exceed the number of NRC bulletin boards in the same building.

The Union is responsible for assuring that Union material is not placed elsewhere than on NRC bulletin boards and/or on bulletin boards furnished as stated above. Federal Property Management Regulations prohibit the placing of notices or issuances on walls or other painted surfaces. The Union shall be responsible, in accordance with applicable Federal Property Management Regulations, for all material posted by the Union. Notices and issuances which contain libelous and/or slanderous material pertaining to the Federal Government, to the NRC or to any NRC supervisor or management official, shall not be posted. The bulletin boards will be monitored periodically by the Union to assure that such material is not posted. NRC shall have the right to remove any libelous or slanderous material it finds posted on Union space or bulletin boards.

55.2 Video Displays

The Union will be allowed to transmit brief informational messages, i.e., notification of meetings via agency closed circuit monitors. Messages will be transmitted at times to be determined by the agency during normal working hours and in accordance with agency procedures.

Use of this "electronic bulletin board" will be subject, on a case-by-case basis, to the approval of the Chief, Employee/Labor Relations and Work Life Branch. The Union will not use this medium for recruitment purposes.

55.3 Video Broadcast

The NTEU will be permitted, on a case by case basis, as determined by management, to transmit information via the agency's closed circuit TV system. NTEU must provide pre-recorded video tapes for management review and approval.

Article 56

Dues Withholding

56.1 Eligibility

The purpose of this Article is to permit eligible employees who are members of the Union to pay dues through the authorization of voluntary allotments from their compensation. This Article covers all eligible employees:

- 56.1.1 Who are members in good standing in the Union;
- 56.1.2 Who are assigned to positions in the bargaining unit;
- 56.1.3 Who have voluntarily completed Standard Form (SF) 1187, Request for Payroll Deductions for Labor Organization Dues; and
- 56.1.4 Who receive compensation sufficient to cover the total amount of the allotment.

56.2 Remittance

Remittances will be made payable to the NTEU and will be transmitted within eight (8) workdays of the close of a pay period, as directed by the Union.

56.3 Certification

The NTEU National President or any Chapter Officer who has submitted proper notification to the Chief, Employee/Labor Relations and Work Life Branch, is authorized to make the necessary certification of SF-1187.

56.4 Union Responsibilities

The Union agrees to assume responsibility for:

- 56.4.1 Informing and educating its members on the voluntary nature of the system for allotment of Union dues; including the conditions under which the allotment may be revoked.
- 56.4.2 Purchasing and distributing to its members SF-1187 and the accompanying statement required under the Privacy Act of 1974.
- 56.4.3 Informing the Chief, Employee/Labor Relations and Work Life Branch, of changes in Sections 56.2 and 56.3 of this section.
- 56.4.4 Forwarding properly executed and certified SF-1187 to the Chief, Benefits and Employee Services Branch (BESB), on a timely basis.
- 56.4.5 Forwarding an employee's revocation (memorandum of SF-1188, Cancellation of Payroll Deductions of Labor Organization Dues) to the Chief, BESB when such revocation is submitted to the Union.

- 56.4.6 Informing the Chief, Employee/Labor Relations and Work Life Branch, of the name of any participating employee who has been expelled or ceases to be a member in good standing in the Union within 14 calendar days of the date of such final determination.
- 56.4.7 Informing the Chief, Employee/Labor Relations and Work Life Branch, of any change in the amount of membership dues.
- 56.4.8 Protecting any personally identifiable information (PII), e.g., social security numbers, that is provided to it under this Article in accordance with applicable law and regulation.

56.5 Agency Responsibilities

The NRC agrees to assume responsibility for:

- 56.5.1 Upon receipt of a properly certified SF-1187, BESB will document receipt of the form and initiate payroll deduction for dues withholding beginning the pay period after receipt.
- 56.5.2 Withholding dues on a biweekly basis.
- 56.5.3 Beginning with the first full pay period 6 months after this agreement is signed and continuing biweekly thereafter, the following information will be provided within 9 calendar days of the close of each pay period (in a mutually agreed format):

Social Security Number

Chapter number

First name

Last name (left justified)

Dues withholding amount

Seasonal W.A.E. identification

Dues Withholding Code

Grade

Step

Pay Plan

National Dues Amount

Chapter Dues Amount

Bi-weekly Salary

Dues Withholding Codes:

“D” = continuing

“E” = no dues deduction because employee’s compensation insufficient to permit a deduction

“F” = new allotment

“G” = revocation

“H” = separation

“I” = pay adjustment

“J” = movement out of recognition area

“K” = W.A.E. to non-duty

“L” = temporary movement out of recognition area

“M” = reinstatement of allotment after return from temporary movement out of recognition area

“N” = Non-Duty Status (Seasonal Continues to be in Non-Duty Status)

“R” = Retirement

- 56.5.4 Notifying the employee and the Union when the employee is not in the bargaining unit.
- 56.5.5 Withholding new amounts of dues upon certification from the NTEU National President so long as the amount has not been changed during the past 12 months.
- 56.5.6 Transmitting payment for dues withholding amounts to the allottee designated by the Union.
- 56.5.7 Transmitting dues withholding information pursuant to Section 56.5.3 to the NTEU National Office.

- 56.5.8 Having the BESB, upon receipt of a properly executed SF-1188 or other revocation document, stamp the date received on the form or other revocation document.
- 56.5.9 Having the BESB provide local NTEU Chapters with a copy of SF-1188 or other revocation documents received within a reasonable time.
- 56.5.10 Providing the information specified in Section 56.5.3 to the local chapter as soon as practicable.
- 56.5.11 An employee changing to a (G) revocation, (H) separation, (J) movement out of the recognition area, (L) temporary movement out of the recognition area, or (R) retirement, will be placed on the electronic list only once for the pay period in which their dues withholding status changed. The following pay period that employee will be removed from the electronic list.

56.6 Voluntary Allotments

The NRC agrees that it is responsible for processing voluntary allotments of dues in accordance with this Article. Nothing in the Agreement, however, will require an employee to become or remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary written authorization by a member for payment of dues through payroll deductions or by voluntary cash dues payment by a member.

56.7 Allotment Processing

The parties agree that:

- 56.7.1 The formula for determining the amount of the dues to be deducted as allotments from compensation may not be changed more frequently than once in 12 months.
- 56.7.2 The Union will pay no fee for these services.
- 56.7.3 Corrections of administrative errors in remittances normally will be made within four weeks of discovery. If the Union is not scheduled to receive a remittance after discovery of the error, the Union agrees to promptly refund the amount of erroneous remittance.

56.8 Effective Date of Allotment

The start of dues withholding will begin on the first full pay period after the receipt of a properly executed and certified SF-1187 in the BESB.

56.9 Changes in Dues Withholding Amount

Changes in amounts of dues will begin the first full pay period after receipt of the appropriate Union certification in the Employee/Labor Relations Work Life Branch, as long as the amount has not been changed during the past twelve months.

56.10 Termination

- 56.10.1 Termination due to loss of membership in good standing will begin the first full period after the date of receipt of notification in the Employee/Labor Relations Work Life Branch.
- 56.10.2 Termination due to separation or movement out of the exclusive unit will result in a final deduction composed of the full amount of dues withholding rate for the pay period. The final deduction will be made for the last full pay period in which the employee was a member of the bargaining unit.

56.11 Insufficient Amounts

- 56.11.1 NRC agrees that in those cases where an insufficient amount of dues has been withheld from an individual employee, the error will be adjusted as soon as practicable after NRC becomes aware of the error, provided the employee is due compensation.
- 56.11.2 The adjustment will be shown on the employee's earnings and leave statement covering the pay period in which the error was corrected.

56.12 Involuntary Cancellation of Dues Withholding

When a bargaining unit employee is assigned to a non-bargaining unit position as a result of a personnel action, and the employee has dues withheld through a payroll allotment, the employee's allotment will be cancelled when the personnel action is processed. If the employee's assignment to a non-bargaining unit position is temporary, dues withholding will be reinstated effective the first pay period after the employee is returned to a bargaining unit position.

NRC agrees to provide NTEU a listing of employees that have had their dues involuntarily cancelled as soon as practicable.

56.13 Voluntary Cancellation of Dues Withholding

Pursuant to Federal Statute, employees who are having Union dues withheld from pay as the result of the execution of a voluntary Dues Withholding Agreement may terminate said withholding agreement as follows:

Revocation after one (1) year of membership - Revocation notices for employees who have had dues allotments in effect for more than one (1) year may be submitted to NRC at any time. However, the effective date of cancellation will be the beginning of the first full pay period of the following September. Revocation notices received during the first full pay period of September, will be effective the first pay period the following September.

Revocation before one (1) year anniversary of membership - Revocation notices for employees who have not had dues allotments in effect for one (1) year may be submitted to NRC on or before the one (1) year anniversary date of their dues allotment. The effective date of cancellation will be the beginning of the first full pay period after the employee's anniversary date.

NRC agrees to provide NTEU a listing of employees that are terminating their dues withholding as soon as practicable after receipt of request.

Article 57

Duration

57.1 Duration

- 57.1.1 This Agreement shall remain in effect for a period of four years from its effective date and shall be automatically renewable for additional one year periods unless either Party notifies the other Party, in writing, at least sixty calendar days, but not more than one hundred five calendar days prior to the expiration date of its intention to re-open, amend, modify, or terminate this Agreement. Such written notice shall be accompanied by proposed ground rules or a statement of the provision(s) in the Agreement that the Party desires to modify.
- 57.1.2 When the agreement is reopened in accordance with this Article, either party may terminate an Agreement provision that is permissively negotiable. Any provision of the Agreement that conflicts with a government-wide regulation that took effect during the term of this Agreement will be brought into compliance with that regulation, subject to any bargaining obligations regarding that change. Such changes shall be effective upon conclusion of any required negotiations over impact and implementation.
- 57.1.3 When notice of desire to re-open, amend, modify, or terminate is given, the Parties shall confer within fourteen calendar days to schedule a meeting for the purpose of negotiating ground rules for the conduct of negotiations on a new Agreement. This meeting should occur no later than thirty calendar days prior to the expiration date of this Agreement.
- 57.1.4 Except as provided in Section 57.1.2 of this Article, if negotiations on a new Agreement are not concluded prior to the expiration date, this Agreement shall continue in full force until a new Agreement has been approved.

57.2 Reopeners

Either party may reopen up to four (4) articles of this agreement by serving proposals on the other party during the twenty-fourth (24) month of this agreement (calculated from its effective date).

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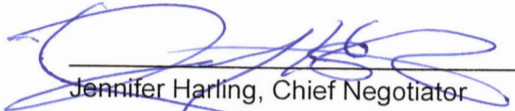
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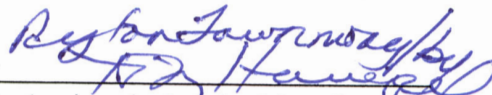
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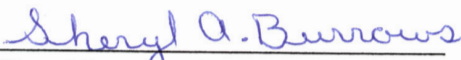
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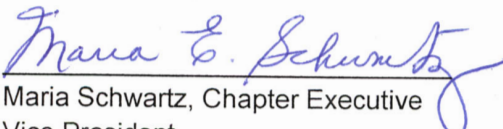
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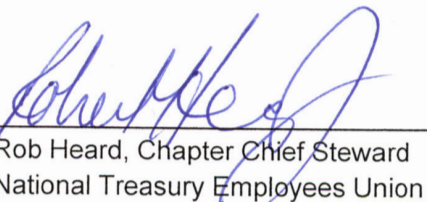
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Jennifer Harling, Chief Negotiator
National Treasury Employees Union

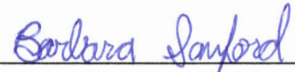

Peyton Lawrimore, Assistant Counsel
National Treasury Employees Union



Sheryl Burrows, Chapter President
National Treasury Employees Union

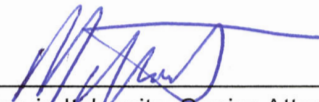

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National Treasury Employees Union



Rob Heard, Chapter Chief Steward
National Treasury Employees Union

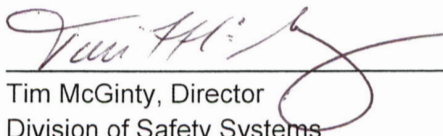
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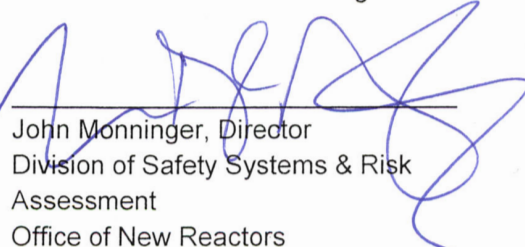

Barbara Sanford, Chief Negotiator
Office of the Chief Human Capital Officer


Michael Gartman, Deputy Associate Director
Human Resources Operations & Policy
Office of the Chief Human Capital Officer


Marvin Itzkowitz, Senior Attorney
Associate General Counsel for Hearings,
Enforcement & Administration
Office of the General Counsel


Mark Lombard, Director
Division of Spent Fuel Management
Office of Nuclear Material Safety &
Safeguards


Tim McGinty, Director
Division of Safety Systems
Office of Nuclear Reactor Regulation


John Monninger, Director
Division of Safety Systems & Risk
Assessment
Office of New Reactors



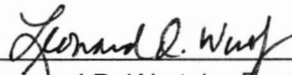
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Administrator
Region III



David Skeen, Deputy Director
Office of International Programs



Sharon Stewart, Deputy Director
Office of Administration

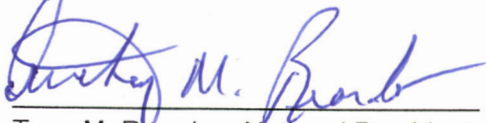


Leonard D. Wert Jr., Deputy Regional
Administrator for Operations
Region II

July 30, 2015

Date Ratified by Chapter Membership

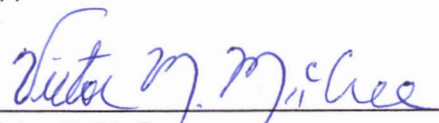
Approved:



Tony M. Reardon, National President
National Treasury Employees Union

Date: **October 26, 2015**

Approved:



Victor M. McCree
Executive Director for Operations

Date: **October 26, 2015**

